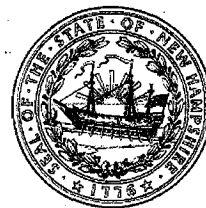


The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 years of protecting
New Hampshire's environment.*



November 8, 2012

H. Curtis Spalding, Regional Administrator
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: State Implementation Plan Revision Submittal for Env-A 300 - Ambient Air Quality Standards

Dear Administrator Spalding:

Pursuant to section 110 of the federal Clean Air Act as amended, the state of New Hampshire hereby submits for approval the subject proposed State Implementation Plan (SIP) revision and one exact electronic copy thereof on a disk (enclosed). As Governor John Lynch's designee, I am requesting EPA's approval of this revision, which consists of the additions and amendments to administrative rule **Env-A 300, Ambient Air Quality Standards**.

Env-A 300 establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire. Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead were made to provide consistency with recently revised national ambient air quality standards.

On October 20, 2004, DES submitted an earlier version of Env-A 300 as a SIP revision. DES is hereby withdrawing that submittal, as the current submittal contains the version of the rule that took effect on September 1, 2012, superseding the 2004 rule.

This submittal contains all documentation necessary to satisfy the SIP completeness requirements pursuant to 40 CFR Part 51, Appendix V. The following administrative materials are included for your review:

- a. Evidence of the rule's adoption
- b. Evidence of legal authority
- c. A copy of the rule
- d. Evidence that all the State's legal requirements were followed in adopting the rule and submitting the SIP revision
- e. Evidence that the public notice was given in accordance with EPA procedures
- f. Certification that, if requested, the public hearing was held in accordance with the public notice
- g. A compilation of public comments and the State's responses thereto

www.des.nh.gov

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One of the requirements of Appendix V is that the documentation include the date of adoption, as well as the effective date, of the rule. In accordance with RSA 541-A:14, an agency may adopt a rule after all procedures have been completed. The NH Department of Environmental Services (DES) adopts a rule on the day its Commissioner signs a letter advising that he has adopted the rule and files the adopted rule with the Director of the Office of Legislative Services (OLS). The rule takes effect the day after it is filed unless a different date is requested in the letter. The attachments hereto contain a letter from the DES Commissioner to the Director of the OLS, documenting the adoption of the rule, as well as written documentation from the OLS as to the filing and effective dates of the rule.

Should you have any questions regarding this submittal, please contact Karla McManus, Planning and Rules Manager, at karla.mcmanus@des.nh.gov or (603) 271-6854, or Barbara L. Hoffman, SIP Planning Manager, at barbara.hoffman@des.nh.gov or (603) 271-7874. Thank you for your assistance.

Sincerely,



Craig A. Wright
Acting Director
Air Resources Division

Enclosures

cc: Dave Conroy, EPA
Ida E. McDonnell, EPA
David Mackintosh, EPA

EVIDENCE OF THE RULE'S ADOPTION

40 CFR Part 51, Appendix V, 2.1(b)

STATE OF NEW HAMPSHIRE

JILL K. SIEVEKING
ACTING DIRECTOR



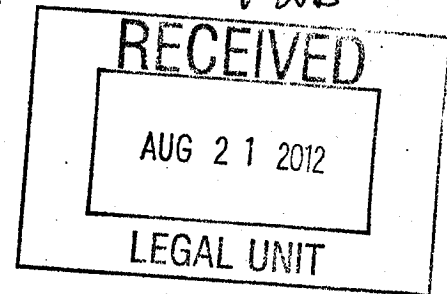
OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE
107 NORTH MAIN STREET, ROOM 109
CONCORD, NEW HAMPSHIRE 03301-4951

August 20, 2012

Received from Commissioner, Department of Environmental Services
the following certified rule(s) filed with the Director of Legislative Services, in accordance with RSA 541-A, the
Administrative Procedures Act.

Document # #10173
Relative to: Env-A 300 - Ambient Air Quality Standards.
Number of Pages: 5
Adopted Date: 8-17-12
Filing Date: 8-17-12
Effective Date: 09/01/2012
Expiration Date: 09/01/2022
Notes: N/A



In all communications with this office concerning the above rule(s), please cite the appropriate document
number, as indicated above.

Jill K. Sieveking

Jill K. Sieveking, Acting Director
Office of Legislative Services

EVIDENCE OF LEGAL AUTHORITY

40 CFR Part 51, Appendix V, 2.1(c)

Laws of New Hampshire, RSA 125-C:4
Rulemaking Authority; Subpoena Power

TITLE X PUBLIC HEALTH

CHAPTER 125-C AIR POLLUTION CONTROL

Section 125-C:4

125-C:4 Rulemaking Authority; Subpoena Power. –

I. The commissioner shall adopt rules under RSA 541-A, relative to:

(a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.

(b) Primary and secondary ambient air quality standards.

(c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.

(d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.

(e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.

(f) The exemption of certain devices and non-Title V sources from the permit requirements of RSA 125-C:11, I and the conformance of exempted devices to established standards, as authorized by RSA 125-C:11, I.

(g) The forms and information required on applications for temporary and permanent permits required under RSA 125-C:11, as authorized by RSA 125-C:12, I.

(h) Notification of and public hearing on permit applications, including exemptions from those requirements, as authorized by RSA 125-C:12, II.

(i) Fees for permit application and review, as authorized by RSA 125-C:12, IV-d.

(j) Procedures for permit application review, as authorized by RSA 125-C:11, IV, and criteria for permit denial, suspension or revocation, as authorized by RSA 125-C:13.

(k) Procedures for air testing and monitoring and recordkeeping, as authorized by RSA 125-C:6, XI.

(l) Procedures for receiving violation complaints and for rules enforcement, as authorized by RSA 125-C:15, I.

(m) Procedures for granting variances, as authorized by RSA 125-C:16.

(n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.

(o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).

(p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.

(q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

I-a. In adopting rules under paragraph I, the department may incorporate by reference standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

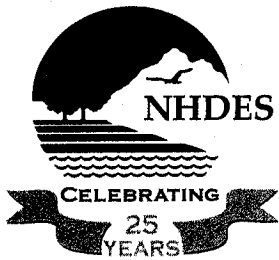
I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c.

II. The commissioner is authorized to issue subpoenas requiring the attendance of such witnesses and the production of such evidence and to administer such oaths and to take such testimony as he may deem necessary.

Source. 1979, 359:2. 1986, 202:8. 1996, 228:19, 104; 278:2, 3. 2001, 293:5. 2003, 137:3. 2004, 175:2, eff. May 27, 2004. 2005, 173:3, eff. June 29, 2005. 2008, 113:3, eff. Aug. 2, 2008. 2010, 183:6, eff. June 21, 2010.

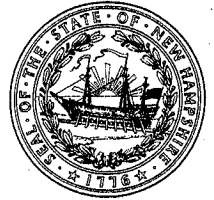
COPY OF THE ACTUAL RULE

40 CFR Part 51, Appendix V, 2.1(d)



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner



*Celebrating 25 Years of Protecting
New Hampshire's Environment*

November 5, 2012

Jill K. Sieveking, Acting Director
Office of Legislative Services
c/o Division of Administrative Rules
25 Capitol Street
State House Annex, Room 219
Concord, New Hampshire 03301-6312

Re: Certification of Env-A 300
Reference Document #10173

Dear Acting Director Sieveking:

Pursuant to RSA 541-A:15, I-a, I hereby certify that the enclosed rules are the same in substance as the rules originally filed with the Office of Legislative Services, Division of Administrative Rules.

I further certify that the enclosed rules, as edited for format by the Division of Administrative Rules, is the official version of these rules which this agency is required to publish in an 8 ½ x 11 inch loose-leaf format as part of the New Hampshire Code of Administrative Rules, under Chapter 5 of the *New Hampshire Drafting and Procedure Manual for Administrative Rules* and RSA 541-A:15, I.

Sincerely,

Thomas S. Burack
Commissioner

Enclosure

cc: Gretchen Hamel, DES Legal Unit
DES Public Information Center

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD

www.des.nh.gov

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NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

PART Env-A 301 PURPOSE, SCOPE AND DEFINITIONS

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to:

(a) Support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire; and

(b) Be at least as stringent as the federal primary and secondary ambient air quality standards, respectively.

Source. #120, eff 8-31-73; ss by #461, eff 4-20-74; ss by #1333, eff 4-1-79; ss by #1614, eff 7-30-80; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

Env-A 301.02 Applicability. This chapter shall apply to ambient air statewide. The department shall not construe these standards in any manner that would allow the significant deterioration of existing air quality in any portion of the state.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 302.01 References. For the purpose of this chapter, unless otherwise specified all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2011 edition.

Source. #120, eff 8-31-73; ss by #461, eff 4-20-74; ss by #1333, eff 4-1-79; ss by #1614, eff 7-30-80; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12 (from Env-A 301.03)

Env-A 302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Attainment" means that the primary or secondary ambient air quality standard, as applicable for that pollutant, is met;

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR 50.1(g), as reprinted in Appendix B;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) that is judged to be necessary to protect public health. For purposes of this definition, "public health" means the overall health and safety of the human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR 50.1(f), as reprinted in Appendix B; and

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(e) "Secondary ambient air quality standard" means the level of air quality designated by the EPA administrator that is judged to be necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, "public welfare" means the well-being of animals and vegetation and the maintenance of property.

Source. #10173, eff 9-1-12 (from Env-A 301.04)

PART Env-A 303 AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The primary and secondary ambient air quality standards for particulate matter (PM) shall be as follows:

(a) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}), the primary and secondary ambient air quality standards each shall be 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration; and

(b) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 2.5 micrometers in diameter or smaller ($PM_{2.5}$):

(1) The annual primary and secondary ambient air quality standards each shall be $15.0 \mu\text{g}/\text{m}^3$, annual arithmetic mean concentration; and

(2) The 24-hour primary and secondary ambient air quality standards each shall be $35 \mu\text{g}/\text{m}^3$, 24-hour average concentration.

Source. #120, eff 8-31-73; ss by #461, eff 4-20-74; ss by #1333, eff 4-1-79; ss by #1614, eff 7-30-80; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #4601, eff 4-21-89; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

Env-A 303.02 Determination of Attainment of PM Standards. The department shall determine the attainment of primary and secondary standards for PM specified in Env-A 303.01 as follows:

(a) For particulate matter measured in the ambient air as PM_{10} , the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration above $150 \mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50 Appendix K, is equal to or less than one; and

(b) For particulate matter measured in the ambient air as $PM_{2.5}$:

(1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to $15.0 \mu\text{g}/\text{m}^3$; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to $35 \mu\text{g}/\text{m}^3$.

Source. #120, eff 8-31-73; ss by #461, eff 4-20-74; ss by #1333, eff 4-1-79; amd by #1614, eff 7-30-80; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

Env-A 303.03 Measurement for PM Attainment Determinations. For the purpose of determining attainment of the primary and secondary ambient air quality standards for PM specified in Env-A 303.01, the following shall apply:

(a) PM_{10} in the ambient air shall be measured by either:

(1) A reference method based on 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or

(2) An equivalent method designated in accordance with 40 CFR 53; and

(b) $\text{PM}_{2.5}$ in the ambient air shall be measured by either:

(1) A reference method based on 40 CFR 50 Appendix L and designated in accordance with 40 CFR 53; or

(2) An equivalent method designated in accordance with 40 CFR 53.

Source. #120, eff 8-31-73; ss by #461, eff 4-20-74; ss by #1333, eff 4-1-79; ss by #1614, eff 7-30-80; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

PART Env-A 304 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

Env-A 304.01 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide. The primary and secondary ambient air quality standards for sulfur dioxide (SO_2), chemical abstracts service registry number (CAS #) 7446-09-5, shall be as follows:

(a) The primary ambient air quality standard for SO_2 shall be 75 parts per billion (ppb), 1-hour average concentration; and

(b) The secondary ambient air quality standard for SO_2 shall be 0.5 parts per million (ppm), 3-hour average concentration.

Source. #120, eff 8-31-73; ss by #721.3, eff 12-7-75; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

Env-A 304.02 Determination of Attainment of SO_2 Standards. The department shall determine attainment of the primary and secondary standards for SO_2 specified in Env-A 304.01 as follows:

(a) The primary ambient air quality standard for SO_2 shall be deemed to be attained when the 3-year

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

average of the annual 99th percentile of the daily maximum 1-hour average concentrations, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and

(b) The secondary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-hour average concentration exceeds 0.5 ppm not more than once per calendar year.

Source. #120, eff 8-31-73; ss by #721.3, eff 12-7-75; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

Env-A 304.03 Measurement for SO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for SO₂ specified in Env-A 304.01, sulfur dioxide in the ambient air shall be measured by either:

- (a) The reference method described in 40 CFR 50 Appendix A or A-1; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

Source. #120, eff 8-31-73; ss by #721.3, eff 12-7-75; ss by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by 10173, eff 9-1-12

PART Env-A 305 AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Env-A 305.01 Primary Ambient Air Quality Standards for Carbon Monoxide. The primary ambient air quality standards for carbon monoxide (CO), CAS # 630-08-0, shall be as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be 9 ppm, 8-hour average concentration; and
- (b) The 1-hour primary ambient air quality standard for CO shall be 35 ppm, 1-hour average concentration.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

Env-A 305.02 Determination of Attainment of CO Standards. The department shall determine attainment of the primary standards for CO specified in Env-A 305.01 as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be deemed to be attained when the 8-hour average concentration exceeds 9 ppm not more than once per calendar year; and
- (b) The 1-hour primary ambient air quality standard for CO shall be deemed to be attained when the 1-hour average concentration exceeds 35 ppm not more than once per calendar year.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

Env-A 305.03 Measurement for CO Attainment Determination. For the purpose of determining attainment of the primary ambient air quality standards for CO specified in Env-A 305.01, carbon monoxide in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix C and designated in accordance with 40 CFR

53; or

- (b) An equivalent method designated in accordance with 40 CFR 53.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04, ss by #10173, eff 9-1-12

PART Env-A 306 AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

Env-A 306.01 Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide. The primary and secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be as follows:

(a) The annual primary ambient air quality standard for NO₂ shall be 53 ppb, annual average concentration;

(b) The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and

(c) The secondary ambient air quality standard for NO₂ shall be 0.053 ppm, equivalent to 100 µg/m³, annual arithmetic mean concentration.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04,

New. #10173, eff 9-1-12

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.

(b) The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ppb.

(c) The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

Env-A 306.03 Measurement for NO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards specified in Env-A 306.01, NO₂ in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix F; or
(b) An equivalent method designated in accordance with 40 CFR 53.

Source. #10173, eff 9-1-12

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

PART Env-A 307 AMBIENT AIR QUALITY STANDARDS FOR OZONE

Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone. The primary and secondary ambient air quality standards for ozone, CAS # 10028-15-6, shall be as follows:

(a) The primary ambient air quality standard for ozone shall be 0.075 ppm, daily maximum 8-hour average; and

(b) The secondary ambient air quality standard for ozone shall be the same as the annual primary ambient air quality standard for ozone designated in (a), above.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

Env-A 307.02 Determination of Attainment of Ozone Standards. The primary and secondary ambient air quality standards for ozone specified in Env-A 307.01 shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.075 ppm.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

Env-A 307.03 Measurement for Ozone Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for ozone specified in Env-A 307.01, ozone in the ambient air shall be measured by either of the following:

(a) A reference method based on 40 CFR 50 Appendix D and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

PART Env-A 308 AMBIENT AIR QUALITY STANDARDS FOR LEAD

Env-A 308.01 Primary and Secondary Ambient Air Quality Standards for Lead. The primary and secondary ambient air quality standards for lead and its compounds, CAS # 7439-92-1, shall be as follows:

(a) The primary ambient air quality standard for lead shall be 0.15 $\mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration; and

(b) The secondary ambient air quality standard for lead shall be the same as the primary ambient air quality standard for lead designated in (a), above.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

Env-A 308.02 Determination of Attainment of Lead Standards. The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$.

Source. #6227, eff 4-25-96; ss by #8054, eff 2-28-04; ss by #10173, eff 9-1-12

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-A 308.03 Measurement for Lead Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for lead specified in Env-A 308.01, lead in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix G and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

Source. #10173, eff 9-1-12

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Appendix A: State Statute, Federal Statute/Regulations Implemented

Provision of the Proposed Rule	Specific State or Federal Statutes or Regulations which the Rule is Intended to Implement
Env-A 300 (also see Parts listed below)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b); 40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b); 40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b); 40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b); 40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b); 40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b); 40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b); 40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) Equivalent method means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

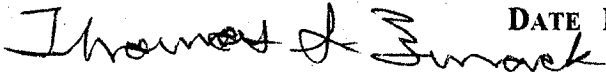
(f) Reference method means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

**EVIDENCE THAT NEW HAMPSHIRE FOLLOWED ALL
PROCEDURAL REQUIREMENTS**

40 CFR Part 51, Appendix V, 2.1(e)

REQUEST FOR FISCAL IMPACT STATEMENT

STATE OF NEW HAMPSHIRE

 DATE February 2, 2012

FROM Thomas S. Burack
Commissioner AT (OFFICE) DES

SUBJECT Request for Fiscal Impact Statement

To Legislative Budget Assistant

In accordance with NH RSA 541-A:5, enclosed please find a Request for Fiscal Impact Statement and a copy of the corresponding administrative rules for the following:

Env-A 300: Ambient Air Quality Standards

Please fax the Fiscal Impact Statement to Peter Demas at 271-8805.

If you have any questions, please contact Peter Demas at 271-2464.

cc: Gretchen Hamel, Administrator, DES Legal Unit
ec: Karla McManus, ARD Planning and Rules Manager

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

FIS Number _____

Rule Number _____

Env-A 300

1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box. 95 Concord, NH 03302-0095	<table style="width: 100%; border-collapse: collapse;"><tr><td style="width: 35%;">2. RSA Authority:</td><td style="border-bottom: 1px solid black;">RSA 125-C:4, I(a)</td></tr><tr><td>3. Federal Authority:</td><td style="border-bottom: 1px solid black;">42 U.S.C. §7409; 40 CFR 50; 40 CFR 53</td></tr><tr><td>4. Type of Action:</td><td></td></tr><tr><td style="padding-left: 20px;">Adoption</td><td style="border-bottom: 1px solid black;"></td></tr><tr><td style="padding-left: 20px;">Amendment</td><td style="border-bottom: 1px solid black;"></td></tr><tr><td style="padding-left: 20px;">Repeal</td><td style="border-bottom: 1px solid black;"></td></tr><tr><td style="padding-left: 20px;">Readoption</td><td style="border-bottom: 1px solid black;"></td></tr><tr><td style="padding-left: 20px;">Readoption w/amendment</td><td style="border-bottom: 1px solid black; text-align: center;">x</td></tr><tr><td style="padding-left: 20px;">Interim rule</td><td style="border-bottom: 1px solid black;"></td></tr><tr><td>5. Have the rules expired?</td><td style="text-align: right;">Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></td></tr><tr><td style="padding-left: 20px;">Date Expired:</td><td style="border-bottom: 1px solid black;"></td></tr></table>	2. RSA Authority:	RSA 125-C:4, I(a)	3. Federal Authority:	42 U.S.C. §7409; 40 CFR 50; 40 CFR 53	4. Type of Action:		Adoption		Amendment		Repeal		Readoption		Readoption w/amendment	x	Interim rule		5. Have the rules expired?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Date Expired:	
2. RSA Authority:	RSA 125-C:4, I(a)																						
3. Federal Authority:	42 U.S.C. §7409; 40 CFR 50; 40 CFR 53																						
4. Type of Action:																							
Adoption																							
Amendment																							
Repeal																							
Readoption																							
Readoption w/amendment	x																						
Interim rule																							
5. Have the rules expired?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>																						
Date Expired:																							

6. Short Title: Ambient Air Quality Standards

7. Contact Person:

Name: Gretchen Hamel	Title: Administrator, Legal Unit
Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #: 271-3137 Fax #: 271-8805

(1) Summarize the rule.

This rule establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C:1 and the federal Clean Air Act, 42 U.S.C. §7509, (CAA). Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are proposed to make them consistent with recently revised national ambient air quality standards, as required by the CAA.

Specifically, ARD is proposing the following substantive changes:

Env-A 303, Ambient Air Quality Standards for Particulate Matter (PM)

The annual primary and secondary standards for PM₁₀ are revoked, and the 24-hour primary and secondary standards for PM_{2.5} are strengthened from 65 to 35 micrograms per cubic meter (µ/m³);

Env-A 304, Ambient Air Quality Standards for Sulfur Dioxide

The 24-hour and annual primary standards are revoked; they are replaced by a more protective 1-hour primary standard of 75 parts per billion (ppb);

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) – Page 2

Env-A 306, Ambient Air Quality Standards for Nitrogen Dioxide

A new 1-hour primary standard of 100 ppb is added;

Env-A 307, Ambient Air Quality Standards for Ozone

The 1-hour primary and secondary standards are revoked, and the 8-hour primary and secondary standards are strengthened from 0.08 to 0.075 parts per million (ppm); and

Env-A 308, Ambient Air Quality Standards for Lead

The primary and secondary standards are strengthened from 1.5 to 0.15 $\mu\text{g}/\text{m}^3$.

- (2) *Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.*

There are no costs attributable to this rule. The proposed rule is being adopted pursuant to RSA 125-C:4, I(b) which requires DES to adopt rules relative to primary and secondary ambient air quality standards.

- (3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

There are no costs associated with either the proposed rule or the existing rule.

- (4) *Describe the costs and benefits to the state general fund which would result from this rule.*

There are no costs or benefits to the state general fund resulting from the proposed rule.

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

The CAA at 42 U.S.C. §7509 requires the U.S. Environmental Protection Agency (EPA) to promulgate national AAQS. EPA promulgated the AAQS in 40 CFR 50. Under 42 U.S.C. 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the AAQS promulgated pursuant to §7509.

- (6) *Describe the cost and benefits to any state special fund which would result.*

There are no costs or benefits to any state special fund resulting from the proposed rule.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

There are no costs or benefits to political subdivisions of the state resulting from the proposed rule.

- (8) *Describe the costs and benefits to the citizens of the state.*

There are no costs or benefits to the citizens of the state resulting from the proposed rule.

- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

There are no costs or benefits to any independently owned business resulting from the proposed rule. There are no specific reporting or recordkeeping requirements upon those employing fewer than 10 employees.

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

Readopt with amendment PART Env-A 301 through PART Env-A 308, eff. 2-28-04 (doc. #8054), to read as follows:

PART Env-A 301 PURPOSE, ~~SCOPE-INTENT~~, AND DEFINITIONS-~~APPLICABILITY~~

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards *to support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53* for various types of pollutants emitted in or transported into the State of New Hampshire. ~~pursuant to section 109 of the Clean Air Act (Act), 40 CFR 53, and 40 CFR 50, as amended. These standards are intended to be protective of the public health and public welfare in accordance with RSA 125-C:1.~~

Env-A ~~302.01~~301.02 Intent of New Hampshire Standards. ~~(a) The department shall designate~~ *intends* the primary and secondary ambient air quality standards *established* in this chapter to be at least as stringent as the federal primary and secondary ambient air quality standards, respectively. ~~(b) The department shall not construe the adoption of these standards in any manner to~~ *that would* allow the significant deterioration of existing air quality in any portion of the state.

Env-A 301.0203 Scope-Applicability. This chapter shall apply statewide to ambient levels of air *statewide*.

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A ~~301.03~~302.01 References. For the purpose of this chapter, unless otherwise specified, *all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2003-2011 edition.* ~~of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 50 and 40 CFR 53.~~

Env-A ~~301.04~~302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Attainment" *for a pollutant, including the terms "attained" and "attainment", means the meeting or satisfaction of a* ~~that the~~ primary or secondary ambient air quality standard *for that pollutant is met*;

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR §50.1(g), ~~namely "a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter [chapter I]; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter [chapter I]"~~ *as reprinted in Appendix B*;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the *U.S. Environmental Protection Agency (EPA)* ~~which~~ *that* is judged ~~as to be~~ necessary to protect ~~the~~ public health. For purposes of this definition, "public health" means the overall health and safety of the ~~general~~ human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR §50.1(f), ~~namely "a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part [part 50], or a method that has been designated as a reference method in accordance with part 53 of this chapter [chapter I]; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter [chapter I]"~~ *as reprinted in Appendix B*; and

(e) "Secondary ambient air quality standard" means the level of air quality designated by the ***EPA*** administrator of ~~EPA which~~ ***that*** is judged ~~as to be~~ necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, "public welfare" means the well-being of animals and vegetation and the maintenance of property.

~~PART Env-A 302 SOURCE OF THE STANDARDS~~

{Env-A 302.01 has been moved and renumbered as Env-A 301.02}

PART Env-A 303 ~~PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER~~

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The department shall designate ~~4~~ primary ambient air quality standards and ~~4~~ secondary ambient air quality standards for particulate matter (***PM***) ***shall be*** as follows:

(a) For ~~particulate matter~~ ***PM*** measured in the ambient air as particles 10 micrometers in diameter or smaller (PM_{10}); ~~(1) The annual primary and secondary ambient air quality standards shall be 50 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean concentration; and (2) The 24-hour primary and secondary ambient air quality standards~~ ***each*** shall be 150 ***micrograms per cubic meter ($\mu g/m^3$)***, 24-hour average concentration; and

(b) For ~~particulate matter~~ ***PM*** measured in the ambient air as particles 2.5 micrometers in diameter or smaller ($PM_{2.5}$):

(1) The annual primary and secondary ambient air quality standards ***each*** shall be 15.0 ~~$\mu g/m^3$~~ , annual arithmetic mean concentration; and

(2) The 24-hour primary and secondary ambient air quality standards ***each*** shall be 6535 ~~$\mu g/m^3$~~ , 24-hour average concentration.

Env-A 303.02 Determination of Attainment of ~~Primary and Secondary~~ ***PM*** Standards for Particulate Matter. The department shall determine the attainment of primary and secondary standards for ~~particulate matter~~ ***PM specified in Env-A 303.01*** as follows:

(a) For particulate matter measured in the ambient air as PM_{10} ; ~~(1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$, as determined in accordance with appendix N of 40 CFR 50; and (2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration, as determined in accordance with 40 CFR 50 Appendix K~~ ***99th percentile 24-hour concentration is less than or equal to 150 $\mu g/m^3$, as determined in accordance with appendix N of 40 CFR 50, is equal to or less than one; and***

(b) For particulate matter measured in the ambient air as $PM_{2.5}$:

(1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the ~~expected~~ annual arithmetic mean concentration, ***as determined in accordance with 40 CFR 50 Appendix N***, is less than or equal to 15.0 ~~$\mu g/m^3$~~ , ***as determined in accordance with appendix N of 40 CFR 50; and***

(2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, ***as determined in accordance with 40***

CFR 50 Appendix N, is less than or equal to ***6535 $\mu\text{g}/\text{m}^3$*** , ~~as determined in accordance with appendix N of 40 CFR 50.~~

Env-A 303.03 ~~Measurement of Particulate Matter in Ambient Air to Determine for PM Attainment of Standards-Determinations.~~ For the purpose of determining attainment of the primary and secondary ambient air quality standards ***for PM specified in Env-A 303.01***, ~~particulate matter shall be measured in the ambient air the following shall apply:~~

- (a) ~~For PM₁₀ in the ambient air shall be measured~~ by either:
 - (1) A reference method based on ~~appendix M of 40 CFR 50~~ ***Appendix J*** and designated in accordance with 40 CFR 53; or
 - (2) An equivalent method designated in accordance with 40 CFR 53; and
- (b) ~~For PM_{2.5} in the ambient air shall be measured~~ by either:
 - (1) A reference method based on ~~appendix L of 40 CFR 50~~ ***Appendix L*** and designated in accordance with 40 CFR 53; or
 - (2) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 304 ~~PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE~~

Env-A 304.01 ~~Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide, CAS 7446-09-5.~~ The department shall designate ~~2~~ primary ambient air quality standards and ~~one~~ secondary ambient air quality standards for sulfur dioxide (***SO₂***), ***chemical abstracts service registry number (CAS #) 7446-09-5***, ~~shall be~~ as follows:

- (a) The ~~annual~~ primary ambient air quality standard ***for SO₂*** shall be ~~0.030-75 parts per million (ppbm), or 80 $\mu\text{g}/\text{m}^3$, annual arithmetic mean 1-hour average concentration;~~ ***and***
- (b) ~~The 24 hour primary ambient air quality standard shall be 0.14 ppm or 365 $\mu\text{g}/\text{m}^3$, 24 hour average concentration.~~
- (eb) The secondary ambient air quality standard ***for SO₂*** shall be ***0.5 parts per million (ppm)*** ~~or 1300 $\mu\text{g}/\text{m}^3$, 3-hour average concentration.~~

Env-A 304.02 ~~Determination of Attainment of Primary and Secondary SO₂ Standards for Sulfur Dioxide.~~ The department shall determine the attainment of ~~the~~ primary and secondary standards for sulfur dioxide ***SO₂ specified in Env-A 304.01*** as follows:

- (a) The ~~annual~~ primary ambient air quality standard ***for SO₂*** shall be deemed to be attained when ~~it is not exceeded in a calendar year.~~ ***the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentration, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and***
- (b) ~~The 24 hour primary ambient air quality standard shall be deemed to be attained when it is exceeded not more than once per calendar year.~~
- (eb) The secondary ambient air quality standard ***for SO₂*** shall be deemed to be attained when ~~it is exceeded~~ ***the 3-hour average concentration exceeds 0.5 ppm*** not more than once per calendar year.

Env-A 304.03 ~~Measurement of Sulfur Dioxide in Ambient Air to Determine for SO₂ Attainment of Standards-Determination.~~ For the purpose of determining attainment of the primary and secondary ambient

air quality standards ***for SO₂ specified in Env-A 304.01***, sulfur dioxide ~~shall be measured~~ in the ambient air ***shall be measured*** by either:

- (a) The reference method described in ~~appendix A of 40 CFR 50~~ ***Appendix A or A-1***; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 305 ~~PRIMARY~~ AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Env-A 305.01 ~~Primary Ambient Air Quality Standards for Carbon Monoxide, CAS 630-08-0. The department shall designate 2 primary ambient air quality standards and no secondary ambient air quality standard for carbon monoxide (CO), CAS # 630-08-0, shall be~~ as follows:

- (a) The 8-hour primary ambient air quality standard ***for CO*** shall be 9 ppm or 10 milligrams per cubic meter (mg/m^3), 8-hour average concentration.
- (b) The 1-hour primary ambient air quality standard ***for CO*** shall be 35 ppm or 40 mg/m^3 , 1-hour average concentration.

Env-A 305.02 ~~Determination of Attainment of Primary CO Standards for Carbon Monoxide. The department shall determine the attainment of the primary standards for carbon monoxide CO specified in Env-A 305.01~~ as follows:

- (a) The 8-hour primary ambient air quality standard ***for CO*** shall be deemed to be attained when ~~it is exceeded the 8-hour average concentration exceeds 9 ppm~~ not more than once per calendar year; ***and***
- (b) The 1-hour primary ambient air quality standard ***for CO*** shall be deemed to be attained when ~~it is exceeded the 1-hour average concentration exceeds 35 ppm~~ not more than once per calendar year.

Env-A 305.03 ~~Measurement of Carbon Monoxide in Ambient Air to Determine for CO Attainment of Standards Determination. For the purpose of determining attainment of the primary ambient air quality standards for CO specified in Env-A 305.01, carbon monoxide shall be measured in the ambient air shall be measured~~ by either:

- (a) A reference method based on ~~appendix C of 40 CFR 50~~ ***Appendix C*** and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 306 ~~PRIMARY AND SECONDARY~~ AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

Env-A 306.01 ~~Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide, CAS 10102-44-0. The department shall designate one primary ambient air quality standard and one secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be~~ as follows:

- (a) The annual primary ambient air quality standard ***for NO₂*** shall be 53 ~~ppb 0.053 ppm or 100~~ $\mu\text{g}/\text{m}^3$, annual ***average arithmetic mean*** concentration;
- (b) ***The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and***
- (bc) The secondary ambient air quality standard ***for NO₂*** shall be 0.053 ppm, equivalent to 100 $\mu\text{g}/\text{m}^3$, ***annual arithmetic mean concentration*** the same as that designated in (a), above.

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) *The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.*

(b) *The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ppm.*

(c) *The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).*

Env-A 306.0203 Measurement of Nitrogen Dioxide in Ambient Air to Determine for NO₂ Attainment of Standards Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards *specified in Env-A 306.01, NO₂ nitrogen dioxide shall be measured in the ambient air shall be measured* by either:

(a) A reference method based on ~~appendix F of 40 CFR 50 Appendix F and designated in accordance with 40 CFR 53;~~ or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 307 PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR OZONE

Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone, CAS 10028-15-6. The department shall designate 2 primary ambient air quality standards and 2 secondary ambient air quality standards for ozone, *CAS # 10028-15-6, shall be* as follows:

(a) The primary ambient air quality standards *for ozone* shall be:

(1) ~~For 1-hour average concentration, 0.12 ppm or 235 ug/m³; and~~

(2) ~~For daily maximum 8-hour average, 0.0758 ppm, daily maximum 8-hour average; and~~

(b) The secondary ambient air quality standards *for ozone* shall be the same as *the annual primary ambient air quality standard for ozone* designated in (a), above.

Env-A 307.02 Determination of Attainment of Primary and Secondary Ozone Standards for Ozone. ~~The department shall determine the attainment of the primary and secondary standards for ozone as follows:~~

~~— (a) For the 1 hour standard, when the expected number of days per calendar year above the standard is equal to or less than one, as determined by appendix H of 40 CFR 50; and~~

~~— (b) For the 8-hour standard, shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.0758 ppm, as determined in accordance with appendix I of 40 CFR 50.~~

Env-A 307.03 Measurement of Ozone in Ambient Air to Determine for Ozone Attainment of Standards Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards *for ozone specified in Env-A 307.01*, ozone shall be measured in the ambient air *shall be measured by either of the following*:

(a) ~~a~~ ***A*** reference method based on ~~appendix D of 40 CFR 50~~ ***Appendix D*** and designated in accordance with 40 CFR 53; ***or***

(b) ***An equivalent method designated in accordance with 40 CFR 53.***

PART Env-A 308 ~~PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR LEAD~~

Env-A 308.01 ~~Primary and Secondary Ambient Air Quality Standards for Lead, CAS 7439-92-1. The department shall designate one primary ambient air quality standard and one secondary ambient air quality standards for lead and its compounds, CAS # 7439-92-1, shall be as follows:~~

(a) The primary ambient air quality standard ***for lead*** shall be ~~1.5~~ ***0.15*** $\mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration; ***and***

(b) The secondary ambient air quality standard ***for lead*** shall be the same as ~~that~~ ***the primary ambient air quality standard for lead*** designated in (a), above.

Env-A 308.02 Determination of Attainment of Lead Standards. The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$.

Env-A 308.0203 ~~Measurement of Lead in Ambient Air to Determine for Lead Attainment of Standards~~ ***Determination.*** For the purpose of determining attainment of the primary and secondary ambient air quality standards ***for lead specified in Env-A 308.01***, lead ~~shall be measured in the ambient air shall be measured~~ by either:

(a) A reference method based on ~~appendix G of 40 CFR 50~~ ***Appendix G*** and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

Appendix A: State Statute, Federal Statute/Regulations Implemented

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) ***Equivalent method*** means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

(f) ***Reference method*** means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

FISCAL IMPACT STATEMENT

LBAO
FIS 12:015
02/09/12

Fiscal Impact Statement for Department of Environmental Services rules governing Ambient Air Quality Standards. [Env-A 300]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There are no costs associated with the proposed rules or the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The Clean Air Act (42 USC 7509) requires the US Environmental Protection Agency to promulgate national ambient air quality standards, which was done 40 CFR 50. Under 42 USC 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the ambient air quality standards promulgated pursuant to 42 USC 7509. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

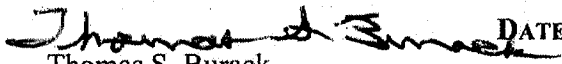
None.

C. To independently owned businesses:

None.

RULEMAKING NOTICE FILING

STATE OF NEW HAMPSHIRE

FROM  **DATE** February 10, 2012
Thomas S. Burack
Commissioner **AT (OFFICE)** DES

SUBJECT Rulemaking Notice

TO Office of Legislative Services
Division of Administrative Rules

Please accept for filing the enclosed Rulemaking Notice for the following rules:

Env-A 300: Ambient Air Quality Standards

Questions from OLS regarding the Rulemaking Notice should be directed to Peter Demas at 271-2464.

Questions from the public regarding the proposed rules, public hearing, or public comment period should be directed to Karla McManus at 271-6854.

Enclosures

cc: Gretchen Hamel, DES Legal Unit Administrator

ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD Planning and Rules Manager
ARD Distribution list

RULEMAKING NOTICE

Notice Number _____

Rule Number _____

Env-A 300

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 125-C:4, I(b)

3. Federal Authority:

42 U.S.C. §7409; 40 CFR 50;
40 CFR 53

4. Type of Action:

Adoption	_____
Amendment	_____
Repeal	_____
Readoption	_____
Readoption w/amendment	X

5. Short Title: Ambient Air Quality Standards

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 300, *Ambient Air Quality Standards*, establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C:4 and the federal Clean Air Act, 42 U.S.C. §7509, (CAA). Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are proposed to make them consistent with recently revised national ambient air quality standards, as required by the CAA.

Specifically, DES is proposing the following substantive changes:

Env-A 303, *Ambient Air Quality Standards for Particulate Matter (PM)*

The annual primary and secondary standards for PM₁₀ are revoked, and the 24-hour primary and secondary standards for PM_{2.5} are strengthened from 65 to 35 micrograms per cubic meter (µg/m³);

Env-A 304, *Ambient Air Quality Standards for Sulfur Dioxide*

The 24-hour and annual primary standards are revoked; they are replaced by a more protective 1-hour primary standard of 75 parts per billion (ppb);

Env-A 306, *Ambient Air Quality Standards for Nitrogen Dioxide*

A new 1-hour primary standard of 100 ppb is added;

Env-A 307, *Ambient Air Quality Standards for Ozone*

The 1-hour primary and secondary standards are revoked, and the 8-hour primary and secondary standards are strengthened from 0.08 to 0.075 parts per million (ppm); and

Env-A 308, *Ambient Air Quality Standards for Lead*

The primary and secondary standards are strengthened from 1.5 to 0.15 µg/m³.

6. (b) Brief description of the groups affected:

The proposed rule benefits the citizens of New Hampshire by strengthening the AAQS to better protect public health, public welfare, quality of life, and the environment. Sources that emit any of the 5 pollutants mentioned above could be affected by the changes to their standards.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A

RULEMAKING NOTICE - Page 2

6. (c) continued

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus Title: ARD Planning and Rules Manager
Address: Department of Environmental Services Phone #: 271-6854
29 Hazen Drive Fax#: 271-1381
P.O. Box 95
Concord, NH 03302-0095

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, April 5, 2012 at 4:00 p.m.**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, March 26, 2012 at 9:30 a.m.**

Place: **Room 113 & 114, DES Office, 29 Hazen Drive, Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 12:015, dated 02/09/2012:

1. Comparison of the costs of the proposed rules(s) to the existing rule(s):

There are no costs associated with the proposed rules or the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The Clean Air Act (42 USC 7509) requires the US Environmental Protection Agency to promulgate national ambient air quality standards, which was done 40 CFR 50. Under 42 USC 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the ambient air quality standards promulgated pursuant to 42 USC 7509. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The Department does not believe at this time that these changes will cause any political subdivisions of the state to incur any new or additional costs. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state.

RULEMAKING REGISTER



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312
Tel. (603) 271-3680

Website: www.gencourt.state.nh.us/rules/index.html

TDD Access:
Relay NH 1-800-735-2964

Fax (603) 271-7871

VOLUME XXXII, Number 7, February 16, 2012

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2. <u>COMMITTEE (JLCAR)</u>	

REGULAR MEETING

Friday, February 17, 2012 9:00 a.m.
Rooms 305/307, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES FEBRUARY-JUNE, 2012

The JLCAR has voted to hold its regularly scheduled meetings for February through June, 2012 on the third Friday of the month as listed below. The minimum 14-day "deadline" prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
February 3	February 17	None
March 2	March 16	March 30
April 6	April 20	May 4
May 4	May 18	June 1
June 1	June 15	June 29

NEW HAMPSHIRE RULEMAKING REGISTER

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2012-16	Ph 1300	Pharmacy Board Pharmacist Administration of Vaccines.	1
2012-17	Saf-C 1400 various sections	Department of Safety, Commissioner Various Carnival-Amusement Rules.	3
2012-18	Bcr 200 various sections	State Building Code Review Board Various Practice and Procedure Rules.	6
2012-19	Ret 304	N.H. Retirement System Contribution Adjustment, Earnable Compensation Adjustment & Service Adjustment.	12
2012-20	Env-A 300	Department of Environmental Services Air Related Programs Ambient Air Quality Standards.	9

Notices of Proposed Interim Rules

<u>Interim Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
(INT 2012-2)	He-M 1302 various sections	Department of Health and Human Services Former Div. of Mental Health & Developmental Svcs. Nursing Facility Preadmission Screening and Annual Resident Review.	14

JLCAR MEETING DATES AND RELATED FILING DEADLINES JULY-DECEMBER, 2012

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2012 on the third Thursdays listed below. The minimum 14-day "deadline" prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
July 5	July 19	August 2
August 2	August 16	September 6
September 6	September 20	October 4
October 4	October 18	November 1
November 1	November 15	December 6
December 6	December 20	None

Notice Number 2012-20

Rule Number

Env-A 300

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 125-C:4, I(b)

3. Federal Authority:

42 U.S.C. §7409; 40 CFR 50;
40 CFR 53

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption w/amendment

x

5. Short Title: Ambient Air Quality Standards

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 300, *Ambient Air Quality Standards*, establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C:4 and the federal Clean Air Act, 42 U.S.C. §7509, (CAA). Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are proposed to make them consistent with recently revised national ambient air quality standards, as required by the CAA.

Specifically, DES is proposing the following substantive changes:

Env-A 303. *Ambient Air Quality Standards for Particulate Matter (PM)*

The annual primary and secondary standards for PM₁₀ are revoked, and the 24-hour primary and secondary standards for PM_{2.5} are strengthened from 65 to 35 micrograms per cubic meter (µg/m³);

Env-A 304. *Ambient Air Quality Standards for Sulfur Dioxide*

The 24-hour and annual primary standards are revoked; they are replaced by a more protective 1-hour primary standard of 75 parts per billion (ppb);

Env-A 306. *Ambient Air Quality Standards for Nitrogen Dioxide*

A new 1-hour primary standard of 100 ppb is added;

Env-A 307. *Ambient Air Quality Standards for Ozone*

The 1-hour primary and secondary standards are revoked, and the 8-hour primary and secondary standards are strengthened from 0.08 to 0.075 parts per million (ppm); and

Env-A 308. *Ambient Air Quality Standards for Lead*

The primary and secondary standards are strengthened from 1.5 to 0.15 µg/m³.

6. (b) Brief description of the groups affected:

The proposed rule benefits the citizens of New Hampshire by strengthening the AAQS to better protect public health, public welfare, quality of life, and the environment. Sources that emit any of the 5 pollutants mentioned above could be affected by the changes to their standards.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A

NN 2012-20 Continued

6. (c) continued

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus Title: ARD Planning and Rules Manager
Address: Department of Environmental Services Phone #: 271-6854
29 Hazen Drive Fax#: 271-1381
P.O. Box 95
Concord, NH 03302-0095

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, April 5, 2012 at 4:00 p.m.**☒ Fax☒ E-mail☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, March 26, 2012 at 9:30 a.m.**Place: **Room 113 & 114, DES Office, 29 Hazen Drive, Concord, NH**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 12:015, dated 02/09/2012:

1. Comparison of the costs of the proposed rules(s) to the existing rule(s):

There are no costs associated with the proposed rules or the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The Clean Air Act (42 USC 7509) requires the US Environmental Protection Agency to promulgate national ambient air quality standards, which was done 40 CFR 50. Under 42 USC 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the ambient air quality standards promulgated pursuant to 42 USC 7509. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The Department does not believe at this time that these changes will cause any political subdivisions of the state to incur any new or additional costs. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state.

Added text in *bold italics*
Deleted text struck through

Initial Proposal 2-1-12 1

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

*Readopt with amendment Env-A 300,
effective 2-28-04
(Doc # 8054), to read as
follows:*

Readopt with amendment PART Env-A 301 through PART Env-A 308, eff. 2-28-04 (doc. #8054), to read as follows:

PART Env-A 301 PURPOSE, SCOPE, INTENT, AND DEFINITIONS APPLICABILITY

*This is
not incorrect
but could be replaced by the*

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire, pursuant to section 109 of the Clean Air Act (Act), 40 CFR 53, and 40 CFR 50, as amended. These standards are intended to be protective of the public health and public welfare in accordance with RSA 125-C:1.

*As above, since the
entire chapter is under one
document.*

Env-A 302.01 301.02 Intent of New Hampshire Standards. (a) The department shall designate intends the primary and secondary ambient air quality standards established in this chapter to be at least as stringent as the federal primary and secondary ambient air quality standards, respectively. (b) The department shall not construe the adoption of these standards in any manner to that would allow the significant deterioration of existing air quality in any portion of the state.

Env-A 301.0203 Scope Applicability. This chapter shall apply statewide to ambient levels of air statewide.

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 301.03 302.01 References. For the purpose of this chapter, unless otherwise specified, all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2003-2011 edition of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 50 and 40 CFR 53.

Env-A 301.04 302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Attainment" for a pollutant, including the terms "attained" and "attainment", means the meeting or satisfaction of a that the primary or secondary ambient air quality standard for that pollutant is met;

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR §50.1(g), namely "a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter [chapter I]; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter [chapter I]" as reprinted in Appendix B;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) which that is judged as to be necessary to protect the public health. For purposes of this definition, "public health" means the overall health and safety of the general human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR §50.1(f), namely "a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part [part 50], or a method that has been designated as a reference method in accordance with part 53 of this chapter [chapter I]; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter [chapter I]" as reprinted in Appendix B; and

ANNOTATIONS TO INITIAL PROPOSAL FROM THE OFFICE OF
LEGISLATIVE SERVICES

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

Edit. "Env-A 300"

Readopt with amendment ~~PART Env-A 301 through PART Env-A 308~~, eff. 2-28-04 (doc. #8054), to read as follows:

PART Env-A 301 PURPOSE, SCOPE-INTENT, AND DEFINITIONS-APPLICABILITY

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire, pursuant to section 109 of the Clean Air Act (Act), 40 CFR 53, and 40 CFR 50, as amended. These standards are intended to be protective of the public health and public welfare in accordance with RSA 125-C:1.

~~Env-A 302.01~~ 301.02 Intent of New Hampshire Standards. (a) The department shall designate ~~intends~~ the primary and secondary ambient air quality standards established in this chapter to be at least as stringent as the federal primary and secondary ambient air quality standards, respectively. (b) The department shall not ~~construe~~ the adoption of these standards in any manner ~~to that would~~ allow the significant deterioration of existing air quality in any portion of the state.

Env-A 301.0203 Scope-Applicability. This chapter shall apply statewide to ambient levels of air statewide.

"apply"

For clarity and compliance with § 3.3 of Ch. 4 of the Manual, the 1st sentence should be reworded as a purpose and made part of 301.01, and the 2nd sentence should be made part of 301.03.

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 301.03302.01 References. For the purpose of this chapter, unless otherwise specified, ~~all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2003-2011 edition of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 50 and 40 CFR 53.~~

Env-A 301.04302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) ~~"Attainment for a pollutant, including the terms 'attained' and 'attainment', means the meeting or satisfaction of a that the primary or secondary ambient air quality standard for that pollutant is met;~~

Saying that a verb, a past tense, and a noun have the same meaning is unclear. Defining the past tense is unnecessary.

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR §50.1(g), namely "a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter [chapter I]; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter [chapter I]" as reprinted in Appendix B;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) which ~~that~~ is judged as ~~to be~~ necessary to protect the public health. For purposes of this definition, "public health" means the overall health and safety of the general human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR §50.1(f), namely "a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part [part 50], or a method that has been designated as a reference method in accordance with part 53 of this chapter [chapter I]; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter [chapter I]" as reprinted in Appendix B; and

(e) "Secondary ambient air quality standard" means the level of air quality designated by the *EPA* administrator of *EPA* which ~~that~~ is judged ~~as to be~~ necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, "public welfare" means the well-being of animals and vegetation and the maintenance of property.

~~PART Env-A 302 SOURCE OF THE STANDARDS~~

{Env-A 302.01 has been moved and renumbered as Env-A 301.02}

~~PART Env-A 303 PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER~~

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The department shall designate ~~4~~ primary ambient air quality standards and ~~4~~ secondary ambient air quality standards for particulate matter (*PM*) *shall be* as follows:

(a) For ~~particulate matter~~ *PM* measured in the ambient air as particles 10 micrometers in diameter or smaller (PM_{10}); (1) ~~The annual primary and secondary ambient air quality standards shall be 50 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean concentration; and (2) The 24-hour primary and secondary ambient air quality standards~~ *each* shall be 150 *micrograms per cubic meter ($\mu g/m^3$)*, 24-hour average concentration; and

(b) For ~~particulate matter~~ *PM* measured in the ambient air as particles 2.5 micrograms in diameter or smaller ($PM_{2.5}$):

(1) The annual primary and secondary ambient air quality standards *each* shall be 15.0 $\mu g/m^3$, annual arithmetic mean concentration; and

(2) The 24-hour primary and secondary ambient air quality standards *each* shall be 65.5 $\mu g/m^3$, 24-hour average concentration.

Env-A 303.02 Determination of Attainment of Primary and Secondary *PM* Standards for Particulate Matter. The department shall determine the attainment of primary and secondary standards for ~~particulate matter~~ *PM specified in Env-A 303.01* as follows:

(a) For particulate matter measured in the ambient air as PM_{10} ; (1) ~~The annual primary and secondary ambient air quality standards shall be deemed to be attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$, as determined in accordance with appendix N of 40 CFR 50; and (2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration, as determined in accordance with 40 CFR 50 Appendix K~~ 99th percentile 24-hour concentration is less than or equal to 150 $\mu g/m^3$, as determined in accordance with appendix N of 40 CFR 50, *is equal to or less than one; and*

(b) For particulate matter measured in the ambient air as $PM_{2.5}$:

(1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the ~~expected annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix N~~, is less than or equal to 15.0 $\mu g/m^3$, ~~as determined in accordance with appendix N of 40 CFR 50; and~~

(2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, *as determined in accordance with 40*

CFR 50 Appendix N, is less than or equal to $6535 \mu\text{g}/\text{m}^3$, as determined in accordance with appendix N of 40 CFR 50.

Env-A 303.03 Measurement of Particulate Matter in Ambient Air to Determine for PM Attainment of Standards-Determinations. For the purpose of determining attainment of the primary and secondary ambient air quality standards for PM specified in Env-A 303.01, particulate matter shall be measured in the ambient air the following shall apply:

- (a) For PM_{10} in the ambient air shall be measured by either:
 - (1) A reference method based on appendix M of 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or
 - (2) An equivalent method designated in accordance with 40 CFR 53; and
- (b) For $\text{PM}_{2.5}$ in the ambient air shall be measured by either:
 - (1) A reference method based on appendix L of 40 CFR 50 Appendix L and designated in accordance with 40 CFR 53; or
 - (2) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 304 PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

Env-A 304.01 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide, CAS 7446-09-5. The department shall designate 2 primary ambient air quality standards and one secondary ambient air quality standards for sulfur dioxide (SO_2), chemical abstracts service registry number (CAS #) 7446-09-5, shall be as follows:

- (a) The annual primary ambient air quality standard for SO_2 shall be 0.030-75 parts per million (ppm), or $80 \mu\text{g}/\text{m}^3$, annual arithmetic mean 1-hour average concentration; and
- (b) The 24 hour primary ambient air quality standard shall be 0.14 ppm or $365 \mu\text{g}/\text{m}^3$, 24 hour average concentration.
- (eb) The secondary ambient air quality standard for SO_2 shall be 0.5 parts per million (ppm) or $1300 \mu\text{g}/\text{m}^3$, 3-hour average concentration.

Env-A 304.02 Determination of Attainment of Primary and Secondary SO_2 Standards for Sulfur Dioxide. The department shall determine the attainment of the primary and secondary standards for sulfur dioxide SO_2 specified in Env-A 304.01 as follows:

- (a) The annual primary ambient air quality standard for SO_2 shall be deemed to be attained when it is not exceeded in a calendar year the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentration, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and
- (b) The 24 hour primary ambient air quality standard shall be deemed to be attained when it is exceeded not more than once per calendar year.
- (eb) The secondary ambient air quality standard for SO_2 shall be deemed to be attained when it is exceeded the 3-hour average concentration exceeds 0.5 ppm not more than once per calendar year.

Env-A 304.03 Measurement of Sulfur Dioxide in Ambient Air to Determine for SO_2 Attainment of Standards-Determination. For the purpose of determining attainment of the primary and secondary ambient

air quality standards *for SO₂ specified in Env-A 304.01*, sulfur dioxide shall be measured in the ambient air *shall be measured* by either:

- (a) The reference method described in ~~appendix A of 40 CFR 50~~ *Appendix A or A-1*; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 305 ~~PRIMARY AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE~~

Env-A 305.01 ~~Primary Ambient Air Quality Standards for Carbon Monoxide, CAS 630-08-0. The department shall designate 2 primary ambient air quality standards and no secondary ambient air quality standard for carbon monoxide (CO), CAS # 630-08-0, shall be~~ as follows:

- (a) The 8-hour primary ambient air quality standard *for CO* shall be 9 ppm or 10 milligrams per cubic meter (mg/m^3), 8-hour average concentration.
- (b) The 1-hour primary ambient air quality standard *for CO* shall be 35 ppm or 40 mg/m^3 , 1-hour average concentration.

Env-A 305.02 ~~Determination of Attainment of Primary CO Standards for Carbon Monoxide. The department shall determine the attainment of the primary standards for carbon monoxide CO specified in Env-A 305.01~~ as follows:

- (a) The 8-hour primary ambient air quality standard *for CO* shall be deemed to be attained when it is exceeded *the 8-hour average concentration exceeds 9 ppm* not more than once per calendar year; and
- (b) The 1-hour primary ambient air quality standard *for CO* shall be deemed to be attained when it is exceeded *the 1-hour average concentration exceeds 35 ppm* not more than once per calendar year.

Env-A 305.03 ~~Measurement of Carbon Monoxide in Ambient Air to Determine for CO Attainment of Standards Determination.~~ For the purpose of determining attainment of the primary ambient air quality standards *for CO specified in Env-A 305.01*, carbon monoxide shall be measured in the ambient air *shall be measured* by either:

- (a) A reference method based on ~~appendix C of 40 CFR 50~~ *Appendix C* and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 306 ~~PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE~~

Env-A 306.01 ~~Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide, CAS 10102-44-0. The department shall designate one primary ambient air quality standard and one secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be~~ as follows:

- (a) The annual primary ambient air quality standard *for NO₂* shall be 53 ppb or 0.53 ppm or 100 $\mu\text{g}/\text{m}^3$, annual *average arithmetic mean* concentration;
- (b) *The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and*
- (bc) The secondary ambient air quality standard *for NO₂* shall be 0.053 ppm, *equivalent to 100 $\mu\text{g}/\text{m}^3$, annual arithmetic mean concentration* the same as that designated in (a), above.

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) *The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.*

(b) *The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ppm.*

(c) *The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).*

~~Env-A 306.0203 Measurement of Nitrogen Dioxide in Ambient Air to Determine for NO₂ Attainment of Standards~~ ***Determination.*** For the purpose of determining attainment of the primary and secondary ambient air quality standards *specified in Env-A 306.01, NO₂ nitrogen dioxide shall be measured in the ambient air shall be measured* by either:

(a) A reference method based on ~~appendix F of 40 CFR 50 Appendix F~~ and designated in accordance with ~~40 CFR 53~~; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 307 PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR OZONE

~~Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone, CAS 10028-15-6.~~
The department shall designate 2 primary ambient air quality standards and 2 secondary ambient air quality standards for ozone, *CAS # 10028-15-6, shall be* as follows:

(a) The primary ambient air quality standards *for ozone* shall be:

(1) ~~For 1-hour average concentration, 0.12 ppm or 235 ug/m³; and~~

(2) ~~For daily maximum 8-hour average, 0.0758 ppm, daily maximum 8-hour average; and~~

(b) The secondary ambient air quality standards *for ozone* shall be the same as *the annual primary ambient air quality standard for ozone* designated in (a), above.

~~Env-A 307.02 Determination of Attainment of Primary and Secondary Ozone Standards for Ozone.~~
The department shall determine the attainment of the primary and secondary standards for ozone as follows:

~~(a) For the 1-hour standard, when the expected number of days per calendar year above the standard is equal to or less than one, as determined by appendix II of 40 CFR 50; and~~

~~(b) For the 8-hour standard, shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.0758 ppm, as determined in accordance with appendix I of 40 CFR 50.~~

~~Env-A 307.03 Measurement of Ozone in Ambient Air to Determine for Ozone Attainment of Standards~~ ***Determination.*** For the purpose of determining attainment of the primary and secondary ambient air quality standards *for ozone specified in Env-A 307.01, ozone shall be measured in the ambient air shall be measured by either of the following:*

(a) ~~a~~ ***A*** reference method based on ~~appendix D of 40 CFR 50~~ ***Appendix D*** and designated in accordance with 40 CFR 53.; ***or***

(b) ***An equivalent method designated in accordance with 40 CFR 53.***

PART Env-A 308 ~~PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS FOR LEAD~~

Env-A 308.01 Primary and Secondary Ambient Air Quality Standards for Lead, CAS 7439-92-1. The department shall ~~designate one primary ambient air quality standard and one secondary ambient air quality standards for lead~~ ***and its compounds, CAS # 7439-92-1, shall be*** as follows:

(a) The primary ambient air quality standard ***for lead*** shall be ~~1.5~~ ***0.15*** $\mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration.; ***and***

(b) The secondary ambient air quality standard ***for lead*** shall be the same as ~~that~~ ***the primary ambient air quality standard for lead*** designated in (a), above.

Env-A 308.02 Determination of Attainment of Lead Standards. ***The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$.***

Env-A 308.0203 Measurement of Lead in Ambient Air to Determine for Lead Attainment of Standards Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards ***for lead specified in Env-A 308.01***, lead shall ~~be measured~~ in the ambient air ***shall be measured*** by either:

(a) A reference method based on ~~appendix G of 40 CFR 50~~ ***Appendix G*** and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

Appendix A: State Statute, Federal Statute/Regulations Implemented

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) ***Equivalent method*** means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

(f) ***Reference method*** means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

PART 1, ARTICLE 28-a OF THE N. H. CONSTITUTION

[Art.] 28-a. [Mandated Programs.] The state shall not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision.

November 28, 1984

TITLE LV PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A ADMINISTRATIVE PROCEDURE ACT

Section 541-A:25

541-A:25 Unfunded State Mandates. —

I. A state agency to which rulemaking authority has been granted, including those agencies, the rulemaking authority of which was granted prior to May 6, 1992, shall not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate further expenditures by the political subdivision unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision. Such programs include those functions of a nature customarily undertaken by municipalities whether or not performance of such functions is required by statute.

II. Such programs also include, but are not limited to, functions such as police, fire and rescue, roads and bridges, solid waste, sewer and water, and construction and maintenance of buildings and other municipal facilities or other facilities or functions undertaken by a political subdivision.

III. Included in the scope and nature of such programs are those municipal functions which might be undertaken by a municipality or by a private entity and those functions which a municipality may legally choose not to undertake.

Source. 1994, 412:1, eff. Aug. 9, 1994.

TITLE LV PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A ADMINISTRATIVE PROCEDURE ACT

Section 541-A:26

541-A:26 Administration of Federal Mandates. – Any state agency, when administering federal mandates, shall not mandate or assign to any political subdivision any new, expanded or modified programs or responsibilities additional to the federal mandate in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision.

Source. 1994, 412:1, eff. Aug. 9, 1994.

TITLE LV PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A ADMINISTRATIVE PROCEDURE ACT

Section 541-A:27

541-A:27 Notification of Federal Statute and Regulation. – Any new, expanded, or modified programs or responsibilities based upon a federal mandate and lawfully mandated or assigned to any political subdivision shall specifically state the federal statute and regulation requiring such new, expanded, or modified programs or responsibilities.

Source. 1994, 412:1, eff. Aug. 9, 1994.

ms 2/3/12
2/3/12

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

FIS Number 12-015

Rule Number

Env-A 300

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 125-C:4, I(a)

3. Federal Authority:

42 U.S.C. §7409; 40 CFR 50; 40
CFR 53

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption

w/amendment

Interim rule

x

5. Have the rules expired?

Yes ☐ No ☒

Date Expired:

6. Short Title: Ambient Air Quality Standards

7. Contact Person:

Name:

Gretchen Hamel

Title:

Administrator, Legal Unit

Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Phone #:

271-3137

Fax #:

271-8805

(1) Summarize the rule.

This rule establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C:1 and the federal Clean Air Act, 42 U.S.C. §7509, (CAA). Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are proposed to make them consistent with recently revised national ambient air quality standards, as required by the CAA.

Specifically, DES is proposing the following substantive changes:

Env-A 303. Ambient Air Quality Standards for Particulate Matter (PM)

The annual primary and secondary standards for PM₁₀ are revoked, and the 24-hour primary and secondary standards for PM_{2.5} are strengthened from 65 to 35 micrograms per cubic meter (µ/m³);

Env-A 304. Ambient Air Quality Standards for Sulfur Dioxide

The 24-hour and annual primary standards are revoked; they are replaced by a more protective 1-hour primary standard of 75 parts per billion (ppb);

Revised 2/3/12 and 2/9/12

Env-A 306. Ambient Air Quality Standards for Nitrogen Dioxide

A new 1-hour primary standard of 100 ppb is added;

Env-A 307. Ambient Air Quality Standards for Ozone

The 1-hour primary and secondary standards are revoked, and the 8-hour primary and secondary standards are strengthened from 0.08 to 0.075 parts per million (ppm); and

Env-A 308. Ambient Air Quality Standards for Lead

The primary and secondary standards are strengthened from 1.5 to 0.15 $\mu\text{g}/\text{m}^3$.

- (2) *Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.*

There are no costs attributable to this rule. The proposed rule is being adopted pursuant to RSA 125-C:4, I(b) which requires DES to adopt rules relative to primary and secondary ambient air quality standards.

- (3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

There are no costs associated with either the proposed rule or the existing rule.

- (4) *Describe the costs and benefits to the state general fund which would result from this rule.*

There are no costs or benefits to the state general fund resulting from the proposed rule.

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

The CAA at 42 U.S.C. §7509 requires the U.S. Environmental Protection Agency (EPA) to promulgate national AAQS. EPA promulgated the AAQS in 40 CFR 50. Under 42 U.S.C. 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the AAQS promulgated pursuant to §7509.

- (6) *Describe the cost and benefits to any state special fund which would result.*

There are no costs or benefits to any state special fund resulting from the proposed rule.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

There are no costs or benefits to political subdivisions of the state resulting from the proposed rule.

- (8) *Describe the costs and benefits to the citizens of the state.*

There are no costs or benefits to the citizens of the state resulting from the proposed rule.

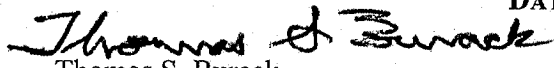
- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

There are no costs or benefits to any independently owned business resulting from the proposed rule. There are no specific reporting or recordkeeping requirements upon those employing fewer than 10 employees.

FINAL PROPOSAL FILING

STATE OF NEW HAMPSHIRE

DATE July 16, 2012


FROM Thomas S. Burack
Commissioner AT (OFFICE) DES

SUBJECT Final Proposal #2012-20

TO Office of Legislative Services
Division of Administrative Rules

In accordance with RSA 541-A:12, enclosed please find the Final Proposal Cover Sheet with attachments, including the corresponding rules, for the following:

Env-A 300: Ambient Air Quality Standards

If you have any questions, please contact Gretchen Hamel at 271-3137.

Enclosures

cc: Gretchen Hamel, Administrator, DES Legal Unit

ec: Karla McManus, ARD Planning and Rules Manager

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2012-20

Rule Number Env-A 300

1. Agency Name & Address:

NH Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 125-C:4, I(b)

3. Federal Authority: 42 U.S.C. §7409; 40 CFR 50; 40 CFR 53

4. Type of Action:

- ☐ Adoption
☐ Amendment
☐ Repeal
☐ Readoption
☒ Readoption w/amendment

5. Short Title: Ambient Air Quality Standards

6. Contact person for copies and questions:

Name: Karla McManus

Title: ARD Planning and Rules Manager

Address: NH Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095

Phone #: (603) 271-6854

7. Yes ☐ No ☒ Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **February 16, 2012**.

9. Yes ☐ N/A ☒ Agency notified policy committees, or House Speaker and Senate President, pursuant to RSA 541-A:10, I, because this is the first time this rule or its amendments have been proposed to implement newly-enacted state authority.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET
AND 2 COPIES OF THE FOLLOWING:
(and numbered correspondingly)**

10. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

11. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Readopt with amendment Env-A 300, eff. 2-28-04 (doc. #8054), to read as follows:

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

PART Env-A 301 PURPOSE, INTENT, AND APPLICABILITY

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to:

(a) ~~S~~support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire; ***and***

(b) ~~Env A 301.02 Intent of New Hampshire Standards. The department intends the primary and secondary ambient air quality standards established in this chapter to be at least as stringent as the federal primary and secondary ambient air quality standards, respectively. The department shall not construe these standards in any manner that would allow the significant deterioration of existing air quality in any portion of the state.~~

Env-A 301.0302 Applicability. This chapter shall apply to ambient air statewide. ***The department shall not construe these standards in any manner that would allow the significant deterioration of existing air quality in any portion of the state.***

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 302.01 References. For the purpose of this chapter, unless otherwise specified all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2011 edition.

Env-A 302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) “***Attainment***” ~~for a pollutant, including the terms “attained” and “attainment”~~, means that the primary or secondary ambient air quality standard, ***as applicable*** for that pollutant, is met;

(b) “Equivalent method” means “equivalent method” as defined by 40 CFR 50.1(g), as reprinted in Appendix B;

(c) “Primary ambient air quality standard” means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) that is judged to be necessary to protect public health. For purposes of this definition, “public health” means the overall health and safety of the human population at large;

(d) “Reference method” means “reference method” as defined by 40 CFR 50.1(f), as reprinted in Appendix B; and

(e) “Secondary ambient air quality standard” means the level of air quality designated by the EPA administrator that is judged to be necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, “public welfare” means the well-being of animals and vegetation and the maintenance of property.

PART Env-A 303 AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The primary and secondary ambient air quality standards for particulate matter (PM) shall be as follows:

(a) For PM measured in the ambient air as particles ***having an aerodynamic diameter less than or equal to a nominal 10 micrometers in diameter or smaller*** (PM₁₀), the primary and secondary ambient air

quality standards each shall be 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), 24-hour average concentration; and

(b) For PM measured in the ambient air as particles ***having an aerodynamic diameter less than or equal to a nominal 2.5 micrograms-micrometers*** in diameter or smaller ($\text{PM}_{2.5}$):

- (1) The annual primary and secondary ambient air quality standards each shall be $15.0 \mu\text{g}/\text{m}^3$, annual arithmetic mean concentration; and
- (2) The 24-hour primary and secondary ambient air quality standards each shall be $35 \mu\text{g}/\text{m}^3$, 24-hour average concentration.

Env-A 303.02 Determination of Attainment of PM Standards. The department shall determine the attainment of primary and secondary standards for PM specified in Env-A 303.01 as follows:

(a) For particulate matter measured in the ambient air as PM_{10} , the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration ***above $150 \mu\text{g}/\text{m}^3$*** , as determined in accordance with 40 CFR 50 Appendix K- ~~$150 \mu\text{g}/\text{m}^3$~~ , is equal to or less than one; and

(b) For particulate matter measured in the ambient air as $\text{PM}_{2.5}$:

- (1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to $15.0 \mu\text{g}/\text{m}^3$; and
- (2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to $35 \mu\text{g}/\text{m}^3$.

Env-A 303.03 Measurement for PM Attainment Determinations. For the purpose of determining attainment of the primary and secondary ambient air quality standards for PM specified in Env-A 303.01, the following shall apply:

(a) PM_{10} in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53; and

(b) $\text{PM}_{2.5}$ in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix L and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 304 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

Env-A 304.01 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide. The primary and secondary ambient air quality standards for sulfur dioxide (SO_2), chemical abstracts service registry number (CAS #) 7446-09-5, shall be as follows:

(a) The primary ambient air quality standard for SO_2 shall be 75 parts per billion (ppb), 1-hour average concentration; and

(b) The secondary ambient air quality standard for SO_2 shall be 0.5 parts per million (ppm), 3-hour

average concentration.

Env-A 304.02 Determination of Attainment of SO₂ Standards. The department shall determine attainment of the primary and secondary standards for SO₂ specified in Env-A 304.01 as follows:

- (a) The primary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and
- (b) The secondary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-hour average concentration exceeds 0.5 ppm not more than once per calendar year.

Env-A 304.03 Measurement for SO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for SO₂ specified in Env-A 304.01, sulfur dioxide in the ambient air shall be measured by either:

- (a) The reference method described in 40 CFR 50 Appendix A or A-1; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 305 AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Env-A 305.01 Primary Ambient Air Quality Standards for Carbon Monoxide. The primary ambient air quality standards for carbon monoxide (CO), CAS # 630-08-0, shall be as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be 9 ppm, 8-hour average concentration; ***and***
- (b) The 1-hour primary ambient air quality standard for CO shall be 35 ppm, 1-hour average concentration.

Env-A 305.02 Determination of Attainment of CO Standards. The department shall determine attainment of the primary standards for CO specified in Env-A 305.01 as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be deemed to be attained when the 8-hour average concentration exceeds 9 ppm not more than once per calendar year; and
- (b) The 1-hour primary ambient air quality standard for CO shall be deemed to be attained when the 1-hour average concentration exceeds 35 ppm not more than once per calendar year.

Env-A 305.03 Measurement for CO Attainment Determination. For the purpose of determining attainment of the primary ambient air quality standards for CO specified in Env-A 305.01, carbon monoxide in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix C and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 306 AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

Env-A 306.01 Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide. The primary and secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be as follows:

- (a) The annual primary ambient air quality standard for NO₂ shall be 53 ppb, annual average

concentration;

(b) The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and

(c) The secondary ambient air quality standard for NO₂ shall be 0.053 ppm, equivalent to 100 µg/m³, annual arithmetic mean concentration.

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.

(b) The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ~~ppm~~ *ppb*.

(c) The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).

Env-A 306.03 Measurement for NO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards specified in Env-A 306.01, NO₂ in the ambient air shall be measured by either:

(a) A reference method based on 40 CFR 50 Appendix F; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 307 AMBIENT AIR QUALITY STANDARDS FOR OZONE

Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone. The primary and secondary ambient air quality standards for ozone, CAS # 10028-15-6, shall be as follows:

(a) The primary ambient air quality standard for ozone shall be 0.075 ppm, daily maximum 8-hour average; and

(b) The secondary ambient air quality standard for ozone shall be the same as the annual primary ambient air quality standard for ozone designated in (a), above.

Env-A 307.02 Determination of Attainment of Ozone Standards. The primary and secondary ambient air quality standards for ozone specified in Env-A 307.01 shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.075 ppm.

Env-A 307.03 Measurement for Ozone Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for ozone specified in Env-A 307.01, ozone in the ambient air shall be measured by either of the following:

(a) A reference method based on 40 CFR 50 Appendix D and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 308 AMBIENT AIR QUALITY STANDARDS FOR LEAD

Env-A 308.01 Primary and Secondary Ambient Air Quality Standards for Lead. The primary and secondary ambient air quality standards for lead and its compounds, CAS # 7439-92-1, shall be as follows:

- (a) The primary ambient air quality standard for lead shall be 0.15 $\mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration; and
- (b) The secondary ambient air quality standard for lead shall be the same as the primary ambient air quality standard for lead designated in (a), above.

Env-A 308.02 Determination of Attainment of Lead Standards. The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to 0.15 $\mu\text{g}/\text{m}^3$.

Env-A 308.03 Measurement for Lead Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for lead specified in Env-A 308.01, lead in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix G and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

Appendix A: State Statute, Federal Statute/Regulations Implemented

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) Equivalent method means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

(f) Reference method means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

Readopt with amendment Env-A 300, eff. 2-28-04 (doc. #8054), to read as follows:

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

PART Env-A 301 PURPOSE, INTENT, AND APPLICABILITY

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to:

(a) Support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire; and

(b) Be at least as stringent as the federal primary and secondary ambient air quality standards, respectively.

Env-A 301.02 Applicability. This chapter shall apply to ambient air statewide. The department shall not construe these standards in any manner that would allow the significant deterioration of existing air quality in any portion of the state.

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 302.01 References. For the purpose of this chapter, unless otherwise specified all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2011 edition.

Env-A 302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Attainment" means that the primary or secondary ambient air quality standard, as applicable for that pollutant, is met;

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR 50.1(g), as reprinted in Appendix B;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) that is judged to be necessary to protect public health. For purposes of this definition, "public health" means the overall health and safety of the human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR 50.1(f), as reprinted in Appendix B; and

(e) "Secondary ambient air quality standard" means the level of air quality designated by the EPA administrator that is judged to be necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, "public welfare" means the well-being of animals and vegetation and the maintenance of property.

PART Env-A 303 AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The primary and secondary ambient air quality standards for particulate matter (PM) shall be as follows:

(a) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀), the primary and secondary ambient air quality standards each shall be 150 micrograms per cubic meter (µg/m³), 24-hour average concentration; and

(b) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 2.5 micrometers in diameter or smaller (PM_{2.5}):

- (1) The annual primary and secondary ambient air quality standards each shall be 15.0 µg/m³, annual arithmetic mean concentration; and
- (2) The 24-hour primary and secondary ambient air quality standards each shall be 35 µg/m³, 24-hour average concentration.

Env-A 303.02 Determination of Attainment of PM Standards. The department shall determine the attainment of primary and secondary standards for PM specified in Env-A 303.01 as follows:

(a) For particulate matter measured in the ambient air as PM₁₀, the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with 40 CFR 50 Appendix K, is equal to or less than one; and

(b) For particulate matter measured in the ambient air as PM_{2.5}:

- (1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to 15.0 µg/m³; and
- (2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to 35 µg/m³.

Env-A 303.03 Measurement for PM Attainment Determinations. For the purpose of determining attainment of the primary and secondary ambient air quality standards for PM specified in Env-A 303.01, the following shall apply:

(a) PM₁₀ in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53; and

(b) PM_{2.5} in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix L and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 304 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

Env-A 304.01 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide. The primary and secondary ambient air quality standards for sulfur dioxide (SO₂), chemical abstracts service registry number (CAS #) 7446-09-5, shall be as follows:

(a) The primary ambient air quality standard for SO₂ shall be 75 parts per billion (ppb), 1-hour average concentration; and

(b) The secondary ambient air quality standard for SO₂ shall be 0.5 parts per million (ppm), 3-hour average concentration.

Env-A 304.02 Determination of Attainment of SO₂ Standards. The department shall determine attainment of the primary and secondary standards for SO₂ specified in Env-A 304.01 as follows:

- (a) The primary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and
- (b) The secondary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-hour average concentration exceeds 0.5 ppm not more than once per calendar year.

Env-A 304.03 Measurement for SO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for SO₂ specified in Env-A 304.01, sulfur dioxide in the ambient air shall be measured by either:

- (a) The reference method described in 40 CFR 50 Appendix A or A-1; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 305 AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Env-A 305.01 Primary Ambient Air Quality Standards for Carbon Monoxide. The primary ambient air quality standards for carbon monoxide (CO), CAS # 630-08-0, shall be as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be 9 ppm, 8-hour average concentration; and
- (b) The 1-hour primary ambient air quality standard for CO shall be 35 ppm, 1-hour average concentration.

Env-A 305.02 Determination of Attainment of CO Standards. The department shall determine attainment of the primary standards for CO specified in Env-A 305.01 as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be deemed to be attained when the 8-hour average concentration exceeds 9 ppm not more than once per calendar year; and
- (b) The 1-hour primary ambient air quality standard for CO shall be deemed to be attained when the 1-hour average concentration exceeds 35 ppm not more than once per calendar year.

Env-A 305.03 Measurement for CO Attainment Determination. For the purpose of determining attainment of the primary ambient air quality standards for CO specified in Env-A 305.01, carbon monoxide in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix C and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 306 AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

Env-A 306.01 Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide. The primary and secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be as follows:

- (a) The annual primary ambient air quality standard for NO₂ shall be 53 ppb, annual average concentration;

(b) The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and

(c) The secondary ambient air quality standard for NO₂ shall be 0.053 ppm, equivalent to 100 µg/m³, annual arithmetic mean concentration.

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.

(b) The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ppb.

(c) The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).

Env-A 306.03 Measurement for NO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards specified in Env-A 306.01, NO₂ in the ambient air shall be measured by either:

(a) A reference method based on 40 CFR 50 Appendix F; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 307 AMBIENT AIR QUALITY STANDARDS FOR OZONE

Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone. The primary and secondary ambient air quality standards for ozone, CAS # 10028-15-6, shall be as follows:

(a) The primary ambient air quality standard for ozone shall be 0.075 ppm, daily maximum 8-hour average; and

(b) The secondary ambient air quality standard for ozone shall be the same as the annual primary ambient air quality standard for ozone designated in (a), above.

Env-A 307.02 Determination of Attainment of Ozone Standards. The primary and secondary ambient air quality standards for ozone specified in Env-A 307.01 shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.075 ppm.

Env-A 307.03 Measurement for Ozone Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for ozone specified in Env-A 307.01, ozone in the ambient air shall be measured by either of the following:

(a) A reference method based on 40 CFR 50 Appendix D and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 308 AMBIENT AIR QUALITY STANDARDS FOR LEAD

Env-A 308.01 Primary and Secondary Ambient Air Quality Standards for Lead. The primary and secondary ambient air quality standards for lead and its compounds, CAS # 7439-92-1, shall be as follows:

(a) The primary ambient air quality standard for lead shall be $0.15 \mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration; and

(b) The secondary ambient air quality standard for lead shall be the same as the primary ambient air quality standard for lead designated in (a), above.

Env-A 308.02 Determination of Attainment of Lead Standards. The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$.

Env-A 308.03 Measurement for Lead Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for lead specified in Env-A 308.01, lead in the ambient air shall be measured by either:

(a) A reference method based on 40 CFR 50 Appendix G and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

Appendix A: State Statute, Federal Statute/Regulations Implemented

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) Equivalent method means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

(f) Reference method means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

ANNOTATIONS TO THE FINAL PROPOSAL FROM THE OFFICE OF
LEGISLATIVE SERVICES

JUL 16 2012

COVER SHEET FOR FINAL PROPOSAL

Final Proposal No. 2012-20
7-16-12

Notice Number 2012-20

Rule Number Env-A 300

1. Agency Name & Address:

NH Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

*Substantive comment
on F15 + 28-a statement.*

2. RSA Authority:

RSA 125-C:4, I(b)

3. Federal Authority:

42 U.S.C. §7409; 40 CFR 50; 40 CFR 53

4. Type of Action:

- ☐ Adoption
☐ Amendment
☐ Repeal
☐ Readoption
☒ Readoption w/amendment

5. Short Title: Ambient Air Quality Standards

6. Contact person for copies and questions:

Name: Karla McManus

Title: ARD Planning and Rules Manager

Address: NH Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095

Phone #: (603) 271-6854

7. Yes ☐ No ☒ Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on: February 16, 2012.

9. Yes ☐ N/A ☒ Agency notified policy committees, or House Speaker and Senate President, pursuant to RSA 541-A:10, I, because this is the first time this rule or its amendments have been proposed to implement newly-enacted state authority.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET
AND 2 COPIES OF THE FOLLOWING:
(and numbered correspondingly)**

10. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

11. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

RULEMAKING NOTICE - Page 2

6. (c) continued

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus Title: ARD Planning and Rules Manager
Address: Department of Environmental Services Phone #: 271-6854
29 Hazen Drive Fax#: 271-1381
P.O. Box 95
Concord, NH 03302-0095

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-

800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, April 5, 2012 at 4:00 p.m.**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, March 26, 2012 at 9:30 a.m.**

Place: **Room 113 & 114, DES Office, 29 Hazen Drive, Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 12:015, dated 02/09/2012:

1. Comparison of the costs of the proposed rules(s) to the existing rule(s):

There are no costs associated with the proposed rules or the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The Clean Air Act (42 USC 7509) requires the US Environmental Protection Agency to promulgate national ambient air quality standards, which was done 40 CFR 50. Under 42 USC 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the ambient air quality standards promulgated pursuant to 42 USC 7509. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The Department does not believe at this time that these changes will cause any political subdivisions of the state to incur any new or additional costs. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state.

JLCAR staff has noted on the next page that there appears to be a potential for increased costs. However, the JLCAR has consistently taken the position that, under RSA 541-A:26, federal pass-throughs do not violate 28-a unless the state is adding to the federal requirement.

LBAO
FIS 12:015
02/09/12

Fiscal Impact Statement for Department of Environmental Services rules governing Ambient Air Quality Standards. [Env-A 300]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There are no costs associated with the proposed rules or the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The Clean Air Act (42 USC 7509) requires the US Environmental Protection Agency to promulgate national ambient air quality standards, which was done 40 CFR 50. Under 42 USC 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the ambient air quality standards promulgated pursuant to 42 USC 7509. No impact on state funds.

7400

7409

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:
None.B. To State citizens and political subdivisions:
None.C. To independently owned businesses:
None.

Unclear. The stricter requirements being proposed appear to have a potential for increased costs. However, as noted above, NH is required by federal law to implement such requirements. Presumably, in the absence of state implementation, the requirements would be imposed directly by the EPA with resultant costs.

FP 2012-20, ENV-A 300
SUMMARY OF COMMENTS AND RESPONSES

Env-A 300, *Ambient Air Quality Standards*, establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C:1 and the federal Clean Air Act, 42 U.S.C. §7509, (CAA). The CAA requires New Hampshire's AAQS to be at least as stringent as the federal AAQS as set forth in 40 CFR 50. Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are thus proposed to make them consistent with recently-revised national ambient air quality standards.

The Department of Environmental Services proposed the following substantive changes:

Env-A 303, *Ambient Air Quality Standards for Particulate Matter (PM)*

The annual primary and secondary standards for PM₁₀ are eliminated and the 24-hour primary and secondary standards for PM_{2.5} are strengthened from 65 to 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$);

Env-A 304, *Ambient Air Quality Standards for Sulfur Dioxide (SO₂)*

The 24-hour and annual primary standards are replaced by a more protective 1-hour primary standard of 75 parts per billion (ppb);

Env-A 306, *Ambient Air Quality Standards for Nitrogen Dioxide (NO₂)*

A new 1-hour primary standard of 100 ppb is added;

Env-A 307, *Ambient Air Quality Standards for Ozone*

The 1-hour primary and secondary standards are eliminated and the 8-hour primary and secondary standards are strengthened from 0.08 to 0.075 parts per million (ppm); and

Env-A 308, *Ambient Air Quality Standards for Lead*

The primary and secondary standards are strengthened from 1.5 to 0.15 $\mu\text{g}/\text{m}^3$.

Comments on the proposed rules were received by DES from the U.S. Environmental Protection Agency, the Sierra Club, and OLS/ Administrative Rules. A summary of the comments received and the agency's responses thereto follows.

Comment: Env-A 303.02(a) should be revised as follows:

(a) For particulate matter measured in the ambient air as PM₁₀, the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration *above* 150 $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50 Appendix K-150 $\mu\text{g}/\text{m}^3$, is equal to or less than one; and

Response: The recommended changes have been made.

Comment: The proposed revisions to Env-A 304.03 incorporate improper methods for determining attainment of the 1-hour SO₂ NAAQS, because the determination can be made only through modeling.

Response: EPA has not finalized its guidance to states on implementing the SO₂ standard due to concerns raised about modeling. EPA has arranged several stakeholder meetings for later this month to gather more information on this subject. In a letter to state commissioners, Assistant Administrator McCarthy stated that due to this state of flux, states would not be required to submit modeling demonstrations showing attainment of the standard in unclassifiable areas in the state implementation plans due in June of 2013. Because proposed Env-A 304.03 is consistent with 40 CFR 50.17 and because EPA has not issued final guidance on how or when to use modeling to determine attainment of the one-hour SO₂ standard, DES plans to adopt this rule as proposed and will make adjustments as/if needed once the final EPA guidance is received.

Comment: The language describing the hourly standards for SO₂ and NO₂ in the proposed revisions should match the formulation in the federal regulations.

Response: The proposed rule is the same as the federal rule except for the word "concentration" (which is plural in the federal rule); DES has added an "s" to "concentration" in the proposed final rule.

Comment: The NO₂ standard units are incorrect in Env-A 306.02.

Response: DES agrees and has changed the units from "ppm" to "ppb" in the FP.

Comment: The definitions for PM₁₀ and PM_{2.5} should track the definitions in the federal regulations.

Response: DES agrees and has changed "micrograms" to "micrometers" in the description of PM_{2.5} in Env-A 303.01(b), and has added language used by EPA in defining those pollutants ("... PM measured in the ambient air as particles *having an aerodynamic diameter less than or equal to a nominal [X] micrometers in diameter or smaller* (PM_[X]), the primary and secondary ambient air quality standards ...").

Comment: For clarity and compliance with §3.3 of Ch. 4 of the Manual, the 1st sentence of Env-A 301.02 should be reworded as a purpose and made part of 301.01, and the 2nd sentence should be made part of 301.03.

Response: The suggested revisions have been made.

Comment: The word "construe" in the 2nd sentence of Env-A 301.02 should be changed to "apply".

Response: The Department is not comfortable with changing "construe" to "apply" for two primary reasons. First, AAQS are not "enforced" against a company. One can only determine that an AAQS has been exceeded when monitoring shows this has happened. Since the Department does not maintain monitors at facilities, it is difficult to determine which facility or facilities are causing or contributing to the exceedance of a particular standard. (It might be wood stove or auto emissions that are primarily causing the exceedance.) Instead, the Department establishes emission limits or requires controls in facility permits by determining (through modeling) what amount of emissions under what circumstances might contribute to a violation of the AAQS. The limit is then set below that amount or require controls that will limit emissions to that amount or below. The Department then applies and enforces those limits/control requirements.

Second, the Department believes that the word "construe" was originally required by EPA. Section 160 of the CAA addresses Prevention of Significant Deterioration (PSD) and reads in part:

SEC. 160. The purposes of this part are as follows:

(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipate[d] to occur from air pollution or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air, notwithstanding attainment and maintenance of all national ambient air quality standards; (emphasis added)

As an example of what could happen, a new major source could assert that its modeling shows that its emissions will not violate the AAQS for SO₂. Even so, its emissions could exceed the PSD increment allowed for SO₂ in the area where the source intends to locate. Just not causing or contributing to a violation of the AAQS might not be sufficient to prevent significant deterioration of existing air quality. Thus, we can't construe the AAQS as allowing such a deterioration of air quality.

Comment: Env-A 302.02(a) is unclear because it says that a verb, a past tense, and a noun all have the same meaning.

Response: The defined term has been changed to "attainment" and the alternate forms have been deleted.

Readopt with amendment Env-A 300, eff. 2-28-04 (doc. #8054), to read as follows:

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

PART Env-A 301 PURPOSE, INTENT, AND APPLICABILITY

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to:

(a) Support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire; and

(b) Be at least as stringent as the federal primary and secondary ambient air quality standards, respectively.

Env-A 301.02 Applicability. This chapter shall apply to ambient air statewide. The department shall not construe these standards in any manner that would allow the significant deterioration of existing air quality in any portion of the state.

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 302.01 References. For the purpose of this chapter, unless otherwise specified all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2011 edition.

Env-A 302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Attainment" means that the primary or secondary ambient air quality standard, as applicable for that pollutant, is met;

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR 50.1(g), as reprinted in Appendix B;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) that is judged to be necessary to protect public health. For purposes of this definition, "public health" means the overall health and safety of the human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR 50.1(f), as reprinted in Appendix B; and

(e) "Secondary ambient air quality standard" means the level of air quality designated by the EPA administrator that is judged to be necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, "public welfare" means the well-being of animals and vegetation and the maintenance of property.

PART Env-A 303 AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The primary and secondary ambient air quality standards for particulate matter (PM) shall be as follows:

(a) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}), the primary and secondary ambient air quality standards each shall be 150 micrograms per cubic meter ($\mu g/m^3$), 24-hour average concentration; and

(b) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 2.5 micrometers in diameter or smaller ($PM_{2.5}$):

- (1) The annual primary and secondary ambient air quality standards each shall be $15.0 \mu\text{g}/\text{m}^3$, annual arithmetic mean concentration; and
- (2) The 24-hour primary and secondary ambient air quality standards each shall be $35 \mu\text{g}/\text{m}^3$, 24-hour average concentration.

Env-A 303.02 Determination of Attainment of PM Standards. The department shall determine the attainment of primary and secondary standards for PM specified in Env-A 303.01 as follows:

(a) For particulate matter measured in the ambient air as PM_{10} , the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration above $150 \mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR 50 Appendix K, is equal to or less than one; and

(b) For particulate matter measured in the ambient air as $PM_{2.5}$:

- (1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to $15.0 \mu\text{g}/\text{m}^3$; and
- (2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to $35 \mu\text{g}/\text{m}^3$.

Env-A 303.03 Measurement for PM Attainment Determinations. For the purpose of determining attainment of the primary and secondary ambient air quality standards for PM specified in Env-A 303.01, the following shall apply:

(a) PM_{10} in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53; and

(b) $PM_{2.5}$ in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix L and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 304 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

Env-A 304.01 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide. The primary and secondary ambient air quality standards for sulfur dioxide (SO_2), chemical abstracts service registry number (CAS #) 7446-09-5, shall be as follows:

(a) The primary ambient air quality standard for SO_2 shall be 75 parts per billion (ppb), 1-hour average concentration; and

(b) The secondary ambient air quality standard for SO_2 shall be 0.5 parts per million (ppm), 3-hour average concentration.

Env-A 304.02 Determination of Attainment of SO₂ Standards. The department shall determine attainment of the primary and secondary standards for SO₂ specified in Env-A 304.01 as follows:

- (a) The primary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and
- (b) The secondary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-hour average concentration exceeds 0.5 ppm not more than once per calendar year.

Env-A 304.03 Measurement for SO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for SO₂ specified in Env-A 304.01, sulfur dioxide in the ambient air shall be measured by either:

- (a) The reference method described in 40 CFR 50 Appendix A or A-1; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 305 AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Env-A 305.01 Primary Ambient Air Quality Standards for Carbon Monoxide. The primary ambient air quality standards for carbon monoxide (CO), CAS # 630-08-0, shall be as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be 9 ppm, 8-hour average concentration; and
- (b) The 1-hour primary ambient air quality standard for CO shall be 35 ppm, 1-hour average concentration.

Env-A 305.02 Determination of Attainment of CO Standards. The department shall determine attainment of the primary standards for CO specified in Env-A 305.01 as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be deemed to be attained when the 8-hour average concentration exceeds 9 ppm not more than once per calendar year; and
- (b) The 1-hour primary ambient air quality standard for CO shall be deemed to be attained when the 1-hour average concentration exceeds 35 ppm not more than once per calendar year.

Env-A 305.03 Measurement for CO Attainment Determination. For the purpose of determining attainment of the primary ambient air quality standards for CO specified in Env-A 305.01, carbon monoxide in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix C and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 306 AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

Env-A 306.01 Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide. The primary and secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be as follows:

- (a) The annual primary ambient air quality standard for NO₂ shall be 53 ppb, annual average concentration;

(b) The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and

(c) The secondary ambient air quality standard for NO₂ shall be 0.053 ppm, equivalent to 100 µg/m³, annual arithmetic mean concentration.

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.

(b) The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ppb.

(c) The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).

Env-A 306.03 Measurement for NO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards specified in Env-A 306.01, NO₂ in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix F; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 307 AMBIENT AIR QUALITY STANDARDS FOR OZONE

Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone. The primary and secondary ambient air quality standards for ozone, CAS # 10028-15-6, shall be as follows:

(a) The primary ambient air quality standard for ozone shall be 0.075 ppm, daily maximum 8-hour average; and

(b) The secondary ambient air quality standard for ozone shall be the same as the annual primary ambient air quality standard for ozone designated in (a), above.

Env-A 307.02 Determination of Attainment of Ozone Standards. The primary and secondary ambient air quality standards for ozone specified in Env-A 307.01 shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.075 ppm.

Env-A 307.03 Measurement for Ozone Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for ozone specified in Env-A 307.01, ozone in the ambient air shall be measured by either of the following:

- (a) A reference method based on 40 CFR 50 Appendix D and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 308 AMBIENT AIR QUALITY STANDARDS FOR LEAD

Env-A 308.01 Primary and Secondary Ambient Air Quality Standards for Lead. The primary and secondary ambient air quality standards for lead and its compounds, CAS # 7439-92-1, shall be as follows:

- (a) The primary ambient air quality standard for lead shall be $0.15 \mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration; and
- (b) The secondary ambient air quality standard for lead shall be the same as the primary ambient air quality standard for lead designated in (a), above.

Env-A 308.02 Determination of Attainment of Lead Standards. The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$.

Env-A 308.03 Measurement for Lead Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for lead specified in Env-A 308.01, lead in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix G and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

Appendix A: State Statute, Federal Statute/Regulations Implemented

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) Equivalent method means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

(f) Reference method means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)

cas 7/3/12

2/3/12

FIS Number 12-015Rule Number Env-A 300

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 125-C:4, I(a)

3. Federal Authority:

42 U.S.C. §7409; 40 CFR 50; 40
CFR 53

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption

w/amendment

Interim rule

x

5. Have the rules expired?

Yes ☐ No ☒

Date Expired:

6. Short Title: Ambient Air Quality Standards

7. Contact Person:

Name:

Gretchen Hamel

Title:

Administrator, Legal Unit

Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Phone #:

271-3137

Fax #:

271-8805

(1) Summarize the rule.

This rule establishes state ambient air quality standards (AAQS) for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C:1 and the federal Clean Air Act, 42 U.S.C. §7509, (CAA). Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are proposed to make them consistent with recently revised national ambient air quality standards, as required by the CAA.

Specifically, DES is proposing the following substantive changes:

Env-A 303. Ambient Air Quality Standards for Particulate Matter (PM)

The annual primary and secondary standards for PM₁₀ are revoked, and the 24-hour primary and secondary standards for PM_{2.5} are strengthened from 65 to 35 micrograms per cubic meter (µ/m³);

Env-A 304. Ambient Air Quality Standards for Sulfur Dioxide

The 24-hour and annual primary standards are revoked; they are replaced by a more protective 1-hour primary standard of 75 parts per billion (ppb);

Rev 7/3/12 and 2/3/12

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Env-A 306. Ambient Air Quality Standards for Nitrogen Dioxide

A new 1-hour primary standard of 100 ppb is added;

Env-A 307. Ambient Air Quality Standards for Ozone

The 1-hour primary and secondary standards are revoked, and the 8-hour primary and secondary standards are strengthened from 0.08 to 0.075 parts per million (ppm); and

Env-A 308. Ambient Air Quality Standards for Lead

The primary and secondary standards are strengthened from 1.5 to 0.15 $\mu\text{g}/\text{m}^3$.

- (2) *Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.*

There are no costs attributable to this rule. The proposed rule is being adopted pursuant to RSA 125-C:4, I(b) which requires DES to adopt rules relative to primary and secondary ambient air quality standards.

- (3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

There are no costs associated with either the proposed rule or the existing rule.

- (4) *Describe the costs and benefits to the state general fund which would result from this rule.*

There are no costs or benefits to the state general fund resulting from the proposed rule.

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

The CAA at 42 U.S.C. §7509 requires the U.S. Environmental Protection Agency (EPA) to promulgate national AAQS. EPA promulgated the AAQS in 40 CFR 50. Under 42 U.S.C. 7510, NH is required to adopt a state implementation plan providing for the implementation, maintenance, and enforcement of the AAQS promulgated pursuant to §7509.

- (6) *Describe the cost and benefits to any state special fund which would result.*

There are no costs or benefits to any state special fund resulting from the proposed rule.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

There are no costs or benefits to political subdivisions of the state resulting from the proposed rule.

- (8) *Describe the costs and benefits to the citizens of the state.*

There are no costs or benefits to the citizens of the state resulting from the proposed rule.

- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

There are no costs or benefits to any independently owned business resulting from the proposed rule. There are no specific reporting or recordkeeping requirements upon those employing fewer than 10 employees.

TITLE X

PUBLIC HEALTH

CHAPTER 125-C

AIR POLLUTION CONTROL

Section 125-C:4

125-C:4 Rulemaking Authority; Subpoena Power. –

I. The commissioner shall adopt rules under RSA 541-A, relative to:

(a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.

(b) Primary and secondary ambient air quality standards.

(c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.

(d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.

(e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.

(f) The exemption of certain devices and non-Title V sources from the permit requirements of RSA 125-C:11, I and the conformance of exempted devices to established standards, as authorized by RSA 125-C:11, I.

(g) The forms and information required on applications for temporary and permanent permits required under RSA 125-C:11, as authorized by RSA 125-C:12, I.

(h) Notification of and public hearing on permit applications, including exemptions from those requirements, as authorized by RSA 125-C:12, II.

(i) Fees for permit application and review, as authorized by RSA 125-C:12, IV-d.

(j) Procedures for permit application review, as authorized by RSA 125-C:11, IV, and criteria for permit denial, suspension or revocation, as authorized by RSA 125-C:13.

(k) Procedures for air testing and monitoring and recordkeeping, as authorized by RSA 125-C:6, XI.

(l) Procedures for receiving violation complaints and for rules enforcement, as authorized by RSA 125-C:15, I.

(m) Procedures for granting variances, as authorized by RSA 125-C:16.

(n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.

(o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).

(p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.

(q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

I-a. In adopting rules under paragraph I, the department may incorporate by reference standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c. 4

II. The commissioner is authorized to issue subpoenas requiring the attendance of such witnesses and the production of such evidence and to administer such oaths and to take such testimony as he may deem necessary.

Source. 1979, 359:2. 1986, 202:8. 1996, 228:19, 104; 278:2, 3. 2001, 293:5. 2003, 137:3. 2004, 175:2, eff. May 27, 2004. 2005, 173:3, eff. June 29, 2005. 2008, 113:3, eff. Aug. 2, 2008. 2010, 183:6, eff. June 21, 2010.

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TITLE LV PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A ADMINISTRATIVE PROCEDURE ACT

Section 541-A:25

541-A:25 Unfunded State Mandates. –

I. A state agency to which rulemaking authority has been granted, including those agencies, the rulemaking authority of which was granted prior to May 6, 1992, shall not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate further expenditures by the political subdivision unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision. Such programs include those functions of a nature customarily undertaken by municipalities whether or not performance of such functions is required by statute.

II. Such programs also include, but are not limited to, functions such as police, fire and rescue, roads and bridges, solid waste, sewer and water, and construction and maintenance of buildings and other municipal facilities or other facilities or functions undertaken by a political subdivision.

III. Included in the scope and nature of such programs are those municipal functions which might be undertaken by a municipality or by a private entity and those functions which a municipality may legally choose not to undertake.

Source. 1994, 412:1, eff. Aug. 9, 1994.

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TITLE LV PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A ADMINISTRATIVE PROCEDURE ACT

Section 541-A:26

541-A:26 Administration of Federal Mandates. – Any state agency, when administering federal mandates, shall not mandate or assign to any political subdivision any new, expanded or modified programs or responsibilities additional to the federal mandate in such a way as to necessitate additional local expenditures by the political subdivision unless such programs or responsibilities are fully funded by the state or unless such programs or responsibilities are approved for funding by a vote of the local legislative body of the political subdivision.

Source. 1994, 412:1, eff. Aug. 9, 1994.

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TITLE LV PROCEEDINGS IN SPECIAL CASES

CHAPTER 541-A ADMINISTRATIVE PROCEDURE ACT

Section 541-A:27

541-A:27 Notification of Federal Statute and Regulation. – Any new, expanded, or modified programs or responsibilities based upon a federal mandate and lawfully mandated or assigned to any political subdivision shall specifically state the federal statute and regulation requiring such new, expanded, or modified programs or responsibilities.

Source. 1994, 412:1, eff. Aug. 9, 1994.

after Aug. 7, 1977, to revise and reissue criteria relating to concentrations of NO₂ over such period (not more than three hours) as he deems appropriate, with the criteria to include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.

Subsecs. (e), (f). Pub. L. 95-95, §105, added subsecs. (e) and (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as a note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

★ **§ 7409. National primary and secondary ambient air quality standards**

(a) Promulgation

(1) The Administrator—

(A) within 30 days after December 31, 1970, shall publish proposed regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria have been issued prior to such date; and

(B) after a reasonable time for interested persons to submit written comments thereon (but no later than 90 days after the initial publication of such proposed standards) shall by regulation promulgate such proposed national primary and secondary ambient air quality standards with such modifications as he deems appropriate.

(2) With respect to any air pollutant for which air quality criteria are issued after December 31, 1970, the Administrator shall publish, simultaneously with the issuance of such criteria and information, proposed national primary and secondary ambient air quality standards for any such pollutant. The procedure provided for in paragraph (1)(B) of this subsection shall apply to the promulgation of such standards.

(b) Protection of public health and welfare

(1) National primary ambient air quality standards, prescribed under subsection (a) of this section shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

(2) Any national secondary ambient air quality standard prescribed under subsection (a) of

this section shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

(c) National primary ambient air quality standard for nitrogen dioxide

The Administrator shall, not later than one year after August 7, 1977, promulgate a national primary ambient air quality standard for NO₂ concentrations over a period of not more than 3 hours unless, based on the criteria issued under section 7408(c) of this title, he finds that there is no significant evidence that such a standard for such a period is requisite to protect public health.

(d) Review and revision of criteria and standards; independent scientific review committee; appointment; advisory functions

(1) Not later than December 31, 1980, and at five-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 7408 of this title and the national ambient air quality standards promulgated under this section and shall make such revisions in such criteria and standards and promulgate such new standards as may be appropriate in accordance with section 7408 of this title and subsection (b) of this section. The Administrator may review and revise criteria or promulgate new standards earlier or more frequently than required under this paragraph.

(2)(A) The Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.

(B) Not later than January 1, 1980, and at five-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 7408 of this title and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing criteria and standards as may be appropriate under section 7408 of this title and subsection (b) of this section.

(C) Such committee shall also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.

(July 14, 1955, ch. 360, title I, §109, as added Pub. L. 91-604, §4(a), Dec. 31, 1970, 84 Stat. 1679;

amended Pub. L. 95-95, title I, §106, Aug. 7, 1977,
91 Stat. 691.)

CODIFICATION

Section was formerly classified to section 1857c-4 of this title.

PRIOR PROVISIONS

A prior section 109 of act July 14, 1955, was renumbered section 116 by Pub. L. 81-604 and is classified to section 7416 of this title.

AMENDMENTS

(c). 1977—Subsec. (c), Pub. L. 95-95, § 106(b), added subsec.
Subsec. (d), Pub. L. 95-95, § 106(a), added subsec. (d).

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as a note under section 1401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS,
ORDERS, DETERMINATIONS, CONTRACTS, CERTIFI-
CATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER
ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-55 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 400(b) of Pub. L. 95-95, set out as an effective title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1979, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-483, Oct. 6, 1979, 88 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employment.

ROLE OF SECONDARY STANDARDS

2697, provided that:

(a), Report—The Administrator shall request the National Academy of Sciences to prepare a report to the Congress on the role of national secondary ambient air quality standards in providing welfare and the environment. The report shall:

(1), include information on the effects on welfare that the environmental government will attempt to secure concentrations of pollutants listed pursuant to section 108 [42 U.S.C. 7408] and other pollutants which may be listed;

(2), estimate welfare and environmental costs incurred as a result of such efforts;

(3), examine the role of secondary standards and preventive implementation planning process in preventing such effects;

(4), determine the ambient concentrations of each such pollutant with which a delegate is to protect welfare and the environment from such other impacts of meeting the secondary standards;

(5), determine the degree to which the goals set and objectives of the Clean Air Act [42 U.S.C. 7401 et seq.] are consistent with the goals set and objectives of the Clean Air Act [42 U.S.C. 7401 et seq.]

\$7410. State implementation plans for national primary and secondary ambient air quality standards

(a) Adoption of plan by State; submission to Administrative Commission; review of plan; revision; new sources; indirect source review; supplemental or intermittent control systems

standards

[illegible]

(2) Each implementation plan submitted by a State under this chapter shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

(A) include and enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, user charges, tradeable permits, and other mechanisms), as well as schedules and milestones for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter;

(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

(i) monitor, compile, and analyze data on ambient air quality; and

(ii) upon request, make such data available to the Administrator;

(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to meet the requirements of this chapter.

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Title 40: Protection of Environment

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

[Browse Next](#)

§ 50.1 Definitions.

- (a) As used in this part, all terms not defined herein shall have the meaning given them by the Act.
- (b) *Act* means the Clean Air Act, as amended (42 U.S.C. 1857–18571, as amended by Pub. L. 91–604).
- (c) *Agency* means the Environmental Protection Agency.
- (d) *Administrator* means the Administrator of the Environmental Protection Agency.
- (e) *Ambient air* means that portion of the atmosphere, external to buildings, to which the general public has access.
- (f) *Reference method* means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.
- (g) *Equivalent method* means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.
- (h) *Traceable* means that a local standard has been compared and certified either directly or via not more than one intermediate standard, to a primary standard such as a National Bureau of Standards Standard Reference Material (NBS SRM), or a USEPA/NBS-approved Certified Reference Material (CRM).
- (i) *Indian country* is as defined in 18 U.S.C. 1151.
- (j) *Exceptional event* means an event that affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event, and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event. It does not include stagnation of air masses or meteorological inversions, a meteorological event involving high temperatures or lack of precipitation, or air pollution relating to source noncompliance.

(k) *Natural event* means an event in which human activity plays little or no direct causative role.

(l) *Exceedance with respect to a national ambient air quality standard* means one occurrence of a measured or modeled concentration that exceeds the specified concentration level of such standard for the averaging period specified by the standard.

[36 FR 22384, Nov. 25, 1971, as amended at 41 FR 11253, Mar. 17, 1976; 48 FR 2529, Jan. 20, 1983; 63 FR 7274, Feb. 12, 1998; 72 FR 13580, Mar. 22, 2007]

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Title 40: Protection of Environment

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

[Browse Previous](#) | [Browse Next](#)

§ 50.2 Scope.

- (a) National primary and secondary ambient air quality standards under section 109 of the Act are set forth in this part.
- (b) National primary ambient air quality standards define levels of air quality which the Administrator judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. Such standards are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator deems necessary to protect the public health and welfare.
- (c) The promulgation of national primary and secondary ambient air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of any State or Indian country.
- (d) The proposal, promulgation, or revision of national primary and secondary ambient air quality standards shall not prohibit any State or Indian country from establishing ambient air quality standards for that State or area under a tribal CAA program or any portion thereof which are more stringent than the national standards.

[36 FR 22384, Nov. 25, 1971, as amended at 63 FR 7274, Feb. 12, 1998]

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APPROVAL OF THE RULE BY THE JOINT LEGISLATIVE COMMITTEE ON
ADMINISTRATIVE RULES

STATE OF NEW HAMPSHIRE

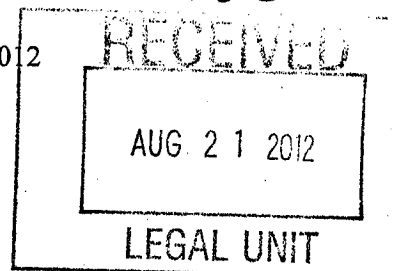
JILL K. SIEVEKING
ACTING DIRECTOR



OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE
107 NORTH MAIN STREET, ROOM 109
CONCORD, NEW HAMPSHIRE 03301-4951

August 16, 2012



NOTICE NO. 2012-20

RULE # Env-A 300

RELATIVE TO: Ambient Air Quality Standards

The Joint Legislative Committee on Administrative Rules has reviewed the Final Proposal on the above cited rule at its meeting on AUGUST 16, 2012.

The Committee voted to approve the proposal. You may proceed to adopt the rules in the proposal and file them with the Office of Legislative Services, Administrative Rules. If the effective life of any existing, regular rules in your proposal were extended during the rulemaking proceeding pursuant to RSA 541-A:14-a, then all the rules in the proposal must be adopted within **30 days** of Committee approval. The rules also must be filed with an effective date not more than **60 days** from the date of filing. See Section 1.11 of Chapter 3 in the N.H. Drafting and Procedure Manual for Administrative Rules (Manual).

When filing the final rules, you are also required to file a cover letter indicating the date of final adoption and certifying the final rules are a true copy. See Section 2.21 of Chapter 3 in the Manual. The rules will become effective either at (1) 12:01 a.m. on the day after the filing, (2) 12:01 a.m. on the date specified in the cover letter to me when the rule is filed, or (3) such other date and time as specified in the cover letter, provided that the filing occurs before such effective date and time. Please send two (2) copies of the adopted rules.

Sincerely yours,

Jill K. Sieveking, Acting Director
Office of Legislative Services

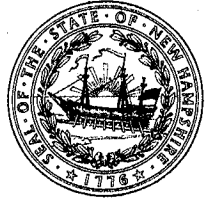
ADOPTED RULE



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



August 17, 2012

Jill K. Sieveking, Acting Director
c/o OLS, Division of Administrative Rules
State House Annex, Room 219
Concord, NH 03301

Re: Adoption of Final Rules, FP #2012-20

Dear Director Sieveking:

Please be advised that I, as Commissioner of the Department of Environmental Services, have adopted the following rules, to be effective September 1, 2012:

Env-A 300: Ambient Air Quality Standards

The Joint Legislative Committee on Administrative Rules approved these rules at its meeting on August 16, 2012.

A copy of the adopted rules is being filed electronically, concurrent with the e-filing of this adoption letter. The original, signed adoption letter is being sent separately by messenger mail for your records.

I, Thomas S. Burack, Commissioner of the Department of Environmental Services, hereby certify that the enclosed are true copies of the rules I have adopted.

Sincerely,

Thomas S. Burack
Commissioner

Enclosure

- cc: Gretchen Hamel, DES Legal Unit
Public Information and Permitting Office
- ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD Planning and Rules Manager

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

Readopt with amendment Env-A 300, eff. 2-28-04 (doc. #8054), to read as follows:

CHAPTER Env-A 300 AMBIENT AIR QUALITY STANDARDS

Statutory Authority: RSA 125-C:4, I(b)

PART Env-A 301 PURPOSE, INTENT, AND APPLICABILITY

Env-A 301.01 Purpose. The purpose of this chapter is to establish ambient air quality standards to:

(a) Support the policy and purpose articulated in RSA 125-C:1 and as required by §109 of the Clean Air Act (Act), 40 CFR 50, and 40 CFR 53 for various types of pollutants emitted in or transported into the State of New Hampshire; and

(b) Be at least as stringent as the federal primary and secondary ambient air quality standards, respectively.

Env-A 301.02 Applicability. This chapter shall apply to ambient air statewide. The department shall not construe these standards in any manner that would allow the significant deterioration of existing air quality in any portion of the state.

PART Env-A 302 REFERENCES; DEFINITIONS

Env-A 302.01 References. For the purpose of this chapter, unless otherwise specified all references to 40 CFR 50 and 40 CFR 53, including appendices, shall be to the July 1, 2011 edition.

Env-A 302.02 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Attainment" means that the primary or secondary ambient air quality standard, as applicable for that pollutant, is met;

(b) "Equivalent method" means "equivalent method" as defined by 40 CFR 50.1(g), as reprinted in Appendix B;

(c) "Primary ambient air quality standard" means the level of air quality designated by the administrator of the U.S. Environmental Protection Agency (EPA) that is judged to be necessary to protect public health. For purposes of this definition, "public health" means the overall health and safety of the human population at large;

(d) "Reference method" means "reference method" as defined by 40 CFR 50.1(f), as reprinted in Appendix B; and

(e) "Secondary ambient air quality standard" means the level of air quality designated by the EPA administrator that is judged to be necessary to protect public welfare from any known or anticipated adverse effects of a pollutant. For purposes of this definition, "public welfare" means the well-being of animals and vegetation and the maintenance of property.

PART Env-A 303 AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Env-A 303.01 Primary and Secondary Ambient Air Quality Standards for Particulate Matter. The primary and secondary ambient air quality standards for particulate matter (PM) shall be as follows:

(a) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀), the primary and secondary ambient air quality standards each shall be 150 micrograms per cubic meter (µg/m³), 24-hour average concentration; and

(b) For PM measured in the ambient air as particles having an aerodynamic diameter less than or equal to a nominal 2.5 micrometers in diameter or smaller (PM_{2.5}):

- (1) The annual primary and secondary ambient air quality standards each shall be 15.0 µg/m³, annual arithmetic mean concentration; and
- (2) The 24-hour primary and secondary ambient air quality standards each shall be 35 µg/m³, 24-hour average concentration.

Env-A 303.02 Determination of Attainment of PM Standards. The department shall determine the attainment of primary and secondary standards for PM specified in Env-A 303.01 as follows:

(a) For particulate matter measured in the ambient air as PM₁₀, the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with 40 CFR 50 Appendix K, is equal to or less than one; and

(b) For particulate matter measured in the ambient air as PM_{2.5}:

- (1) The annual primary and secondary ambient air quality standards shall be deemed to be attained when the annual arithmetic mean concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to 15.0 µg/m³; and
- (2) The 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR 50 Appendix N, is less than or equal to 35 µg/m³.

Env-A 303.03 Measurement for PM Attainment Determinations. For the purpose of determining attainment of the primary and secondary ambient air quality standards for PM specified in Env-A 303.01, the following shall apply:

(a) PM₁₀ in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix J and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53; and

(b) PM_{2.5} in the ambient air shall be measured by either:

- (1) A reference method based on 40 CFR 50 Appendix L and designated in accordance with 40 CFR 53; or
- (2) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 304 AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

Env-A 304.01 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide. The primary and secondary ambient air quality standards for sulfur dioxide (SO₂), chemical abstracts service registry number (CAS #) 7446-09-5, shall be as follows:

(a) The primary ambient air quality standard for SO₂ shall be 75 parts per billion (ppb), 1-hour average concentration; and

(b) The secondary ambient air quality standard for SO₂ shall be 0.5 parts per million (ppm), 3-hour average concentration.

Env-A 304.02 Determination of Attainment of SO₂ Standards. The department shall determine attainment of the primary and secondary standards for SO₂ specified in Env-A 304.01 as follows:

- (a) The primary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations, as determined in accordance with 40 CFR 50 Appendix T, is less than or equal to 75 ppb; and
- (b) The secondary ambient air quality standard for SO₂ shall be deemed to be attained when the 3-hour average concentration exceeds 0.5 ppm not more than once per calendar year.

Env-A 304.03 Measurement for SO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for SO₂ specified in Env-A 304.01, sulfur dioxide in the ambient air shall be measured by either:

- (a) The reference method described in 40 CFR 50 Appendix A or A-1; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 305 AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Env-A 305.01 Primary Ambient Air Quality Standards for Carbon Monoxide. The primary ambient air quality standards for carbon monoxide (CO), CAS # 630-08-0, shall be as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be 9 ppm, 8-hour average concentration; and
- (b) The 1-hour primary ambient air quality standard for CO shall be 35 ppm, 1-hour average concentration.

Env-A 305.02 Determination of Attainment of CO Standards. The department shall determine attainment of the primary standards for CO specified in Env-A 305.01 as follows:

- (a) The 8-hour primary ambient air quality standard for CO shall be deemed to be attained when the 8-hour average concentration exceeds 9 ppm not more than once per calendar year; and
- (b) The 1-hour primary ambient air quality standard for CO shall be deemed to be attained when the 1-hour average concentration exceeds 35 ppm not more than once per calendar year.

Env-A 305.03 Measurement for CO Attainment Determination. For the purpose of determining attainment of the primary ambient air quality standards for CO specified in Env-A 305.01, carbon monoxide in the ambient air shall be measured by either:

- (a) A reference method based on 40 CFR 50 Appendix C and designated in accordance with 40 CFR 53; or
- (b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 306 AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE

Env-A 306.01 Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide. The primary and secondary ambient air quality standards for nitrogen dioxide (NO₂), CAS # 10102-44-0, shall be as follows:

- (a) The annual primary ambient air quality standard for NO₂ shall be 53 ppb, annual average concentration;

(b) The 1-hour primary ambient air quality standard for NO₂ shall be 100 ppb, 1-hour average concentration; and

(c) The secondary ambient air quality standard for NO₂ shall be 0.053 ppm, equivalent to 100 µg/m³, annual arithmetic mean concentration.

Env-A 306.02 Determination of Attainment of NO₂ Standard.

(a) The annual primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the annual average concentration in a calendar year, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 53 ppb.

(b) The 1-hour primary standard for NO₂ specified in Env-A 306.01 shall be deemed to be attained when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average, as determined in accordance with 40 CFR 50 Appendix S, is less than or equal to 100 ppb.

(c) The annual secondary standard specified in Env-A 306.01 shall be deemed to be attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to 3 decimal places, as further described in 40 CFR 50.11(g).

Env-A 306.03 Measurement for NO₂ Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards specified in Env-A 306.01, NO₂ in the ambient air shall be measured by either:

(a) A reference method based on 40 CFR 50 Appendix F; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 307 AMBIENT AIR QUALITY STANDARDS FOR OZONE

Env-A 307.01 Primary and Secondary Ambient Air Quality Standards for Ozone. The primary and secondary ambient air quality standards for ozone, CAS # 10028-15-6, shall be as follows:

(a) The primary ambient air quality standard for ozone shall be 0.075 ppm, daily maximum 8-hour average; and

(b) The secondary ambient air quality standard for ozone shall be the same as the annual primary ambient air quality standard for ozone designated in (a), above.

Env-A 307.02 Determination of Attainment of Ozone Standards. The primary and secondary ambient air quality standards for ozone specified in Env-A 307.01 shall be deemed to be attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration, as determined in accordance with 40 CFR 50 Appendix P, is less than or equal to 0.075 ppm.

Env-A 307.03 Measurement for Ozone Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for ozone specified in Env-A 307.01, ozone in the ambient air shall be measured by either of the following:

(a) A reference method based on 40 CFR 50 Appendix D and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

PART Env-A 308 AMBIENT AIR QUALITY STANDARDS FOR LEAD

Env-A 308.01 Primary and Secondary Ambient Air Quality Standards for Lead. The primary and secondary ambient air quality standards for lead and its compounds, CAS # 7439-92-1, shall be as follows:

(a) The primary ambient air quality standard for lead shall be $0.15 \mu\text{g}/\text{m}^3$, 3-month arithmetic mean concentration; and

(b) The secondary ambient air quality standard for lead shall be the same as the primary ambient air quality standard for lead designated in (a), above.

Env-A 308.02 Determination of Attainment of Lead Standards. The primary and secondary ambient air quality standards for lead specified in Env-A 308.01 shall be deemed to be attained when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with 40 CFR 50 Appendix R, is less than or equal to $0.15 \mu\text{g}/\text{m}^3$.

Env-A 308.03 Measurement for Lead Attainment Determination. For the purpose of determining attainment of the primary and secondary ambient air quality standards for lead specified in Env-A 308.01, lead in the ambient air shall be measured by either:

(a) A reference method based on 40 CFR 50 Appendix G and designated in accordance with 40 CFR 53; or

(b) An equivalent method designated in accordance with 40 CFR 53.

Appendix A: State Statute, Federal Statute/Regulations Implemented

Rules	State Statute Implemented	Federal Statute/Regulations Implemented
Env-A 300 (also see Parts listed below)	RSA 125-C:4, I(b)	42 U.S.C. §7409; 40 CFR 53; 40 CFR 50
Env-A 302	RSA 125-C:4, I(b)	40 CFR §50.1
Env-A 303	RSA 125-C:4, I(b)	40 CFR §50.6, §50.7; 40 CFR 50 Appendix L, M, & N
Env-A 304	RSA 125-C:4, I(b)	40 CFR §50.4, §50.5; 40 CFR 50 Appendix A
Env-A 305	RSA 125-C:4, I(b)	40 CFR §50.8; 40 CFR 50 Appendix C
Env-A 306	RSA 125-C:4, I(b)	40 CFR §50.11; 40 CFR 50 Appendix F
Env-A 307	RSA 125-C:4, I(b)	40 CFR §50.9, §50.10; 40 CFR 50 Appendix H & I
Env-A 308	RSA 125-C:4, I(b)	40 CFR §50.12; 40 CFR 50 Appendix G

Appendix B: Definitions from 40 CFR §50.1

(g) Equivalent method means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of this chapter; it does not include a method for which an equivalent method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

(f) Reference method means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to this part, or a method that has been designated as a reference method in accordance with part 53 of this chapter; it does not include a method for which a reference method designation has been cancelled in accordance with §53.11 or §53.16 of this chapter.

EVIDENCE OF PUBLIC NOTICE

40 CFR Part 51, Appendix V, 2.1(f)

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTA

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES AIR RESOURCES DIVISION
CONCORD, NH NOTICE OF PUBLIC HEARING In accordance with RSA 541-A:6 and N.H. Admin. Rule Env-A 204.01(b) and 40 CFR § 51.102, notice is hereby given that the New Hampshire Department of Environmental Services, Air Resources Division (the Department), will hold a public hearing on proposed amendments to the NH Code of Administrative Rules and the State Implementation Plan on Monday, March 26, 2012. The public hearing will be held in Rooms 113 & 114, first floor of the offices of the Department, 29 Hazen Drive, Concord, NH. At 9:30 a.m. on Monday, March 26, 2012, the Department will receive testimony from the public concerning the proposed readoption with amendments of Env-A 300: Ambient Air Quality Standards. The purpose of this rule is to establish state ambient air quality standards for various types of pollutants emitted in or transported into New Hampshire, in accordance with RSA 125-C and the federal Clean Air Act (CAA). Changes to the standards for particulate matter, sulfur dioxide, nitrogen dioxide, ozone, and lead are proposed to make them consistent with recently revised national ambient air quality standards, as required by the CAA. Testimony may be presented orally and/or in writing at the public hearing. The Department will receive written comments on the proposed rules until 4:00 p.m. on Thursday, April 5, 2012. Please submit written comments to Karla McManus, Planning and Rules Manager, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095, Fax (603) 271-7053 or e-mail at Karla.McManus@des.nh.gov. Copies of all documentation pertaining to rulemakings for all air rules are available for inspection at the offices of the Department at the address stated above. The proposed rule is also posted at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>. Questions regarding the proposed rulemakings should be directed to Karla McManus at (603) 271-6854. Thomas S. Burack Commissioner NH Department of Environmental Services Dated: February 21, 2012

Appeared in: **The Union Leader** on Friday, 02/24/2012

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P O BOX 9513
MANCHESTER, NH 03108

STATE OF NH ST/ AIR RESOURCES COMM
ATT VALERIE DAVID
PO BOX 95
CONCORD NH 03302-0095

I hereby certify that the legal notice of PUB HEARING 3/26,
PO number: KARLA S. MCMANUS was published in the New Hampshire Union Leader
and/or New Hampshire Sunday News, newspapers printed at Manchester, NH
by the Union Leader Corp.
On :

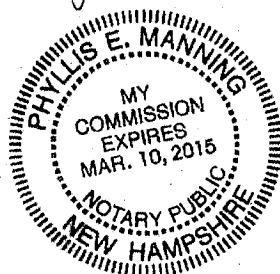
02/24/2012

State of New Hampshire
Hillsborough County
Subscribed and sworn to before me this

1st day of March, 2012

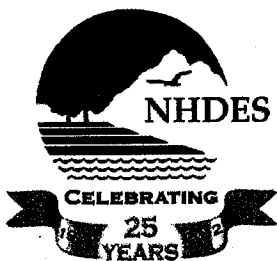
Phyllis E. Manning

Notary Public



CERTIFICATION OF PUBLIC HEARING

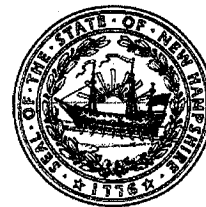
40 CFR Part 51, Appendix V, 2.1(g)



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 years of protecting
New Hampshire's environment.*



June 25, 2012

I Hereby Certify:

That, in accordance with the provisions of NH RSA 541-A:11 and section 110(a) of the Clean Air Act, as amended, public notice was given specifying that a public hearing regarding the proposed readoption with amendments of Env-A 300 of the NH Code of Administrative Rules was to be held on March 26, 2012 at 9:30 a.m. in rooms 113 and 114 of the offices of the New Hampshire Department of Environmental Services, Air Resources Division, 29 Hazen Drive, Concord, NH. The notice was published at least 30 days prior to the date of such hearing in a newspaper of general circulation. The notice stated that copies of documentation regarding the proposed readoption with amendments of Env-A 300 of the NH Code of Administrative Rules could be examined at the Department's offices or at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>.

That the public hearing was held on March 26, 2012 at 9:30 a.m. in rooms 113 and 114 of the offices of the New Hampshire Department of Environmental Services, Air Resources Division, 29 Hazen Drive, Concord, NH, in accordance with the public notice. Since no members of the public attended the hearing, the presentation of the proposed rule and recordation of the presentation were determined to be unnecessary. Therefore, the hearing was closed at 9:40 a.m., and a memo stating the circumstances was added to the file.

That the above statements are true to the best of my knowledge and belief.

Craig A. Wright
Acting Director
Air Resources Division

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**COMPILATION OF PUBLIC COMMENTS AND NEW
HAMPSHIRE'S RESPONSE THERETO**

40 CFR Part 51, Appendix V, 2.1(h)

COMPILATION OF PUBLIC COMMENTS AND NEW HAMPSHIRE'S RESPONSE THERETO

Comments on the proposed rules were received by DES from the U.S. Environmental Protection Agency, the Sierra Club, and the NH Office of Legislative Services/Administrative Rules. A summary of the comments received and the agency's responses thereto follows.

Comment: Env-A 303.02(a) should be revised as follows:

(a) For particulate matter measured in the ambient air as PM_{10} , the 24-hour primary and secondary ambient air quality standards shall be deemed to be attained when the expected number of days per calendar year with a 24-hour average concentration **above $150 \mu g/m^3$** , as determined in accordance with 40 CFR 50 Appendix K ~~$150 \mu g/m^3$~~ , is equal to or less than one; and

Response: The recommended changes have been made.

Comment: The proposed revisions to Env-A 304.03 incorporate improper methods for determining attainment of the 1-hour SO_2 NAAQS, because the determination can be made only through modeling.

Response: EPA has not finalized its guidance to states on implementing the SO_2 standard due to concerns raised about modeling. EPA has arranged several stakeholder meetings for later this month to gather more information on this subject. In a letter to state commissioners, Assistant Administrator McCarthy stated that due to this state of flux, states would not be required to submit modeling demonstrations showing attainment of the standard in unclassifiable areas in the state implementation plans due in June of 2013. Because proposed Env-A 304.03 is consistent with 40 CFR 50.17 and because EPA has not issued final guidance on how or when to use modeling to determine attainment of the one-hour SO_2 standard, DES plans to adopt this rule as proposed and will make adjustments as/if needed once the final EPA guidance is received.

Comment: The language describing the hourly standards for SO_2 and NO_2 in the proposed revisions should match the formulation in the federal regulations.

Response: The proposed rule is the same as the federal rule except for the word "concentration" (which is plural in the federal rule); DES has added an "s" to "concentration" in the proposed final rule.

Comment: The NO_2 standard units are incorrect in Env-A 306.02.

Response: DES agrees and has changed the units from "ppm" to "ppb" in the FP.

Comment: The definitions for PM_{10} and $PM_{2.5}$ should track the definitions in the federal regulations.

Response: DES agrees and has changed “micrograms” to “micrometers” in the description of PM_{2.5} in Env-A 303.01(b), and has added language used by EPA in defining those pollutants (“... PM measured in the ambient air as particles *having an aerodynamic diameter less than or equal to a nominal* [X] micrometers ~~in diameter or smaller~~ (PM_[X]), the primary and secondary ambient air quality standards ...”).

Comment: For clarity and compliance with §3.3 of Ch. 4 of the NH Rulemaking Manual, the 1st sentence of Env-A 301.02 should be reworded as a purpose and made part of 301.01, and the 2nd sentence should be made part of 301.03.

Response: The suggested revisions have been made.

Comment: The word “construe” in the 2nd sentence of Env-A 301.02 should be changed to “apply”.

Response: The Department is not comfortable with changing “construe” to “apply” for two primary reasons. First, AAQS are not “enforced” against a company. One can only determine that an AAQS has been exceeded when monitoring shows this has happened. Since the Department does not maintain monitors at facilities, it is difficult to determine which facility or facilities are causing or contributing to the exceedance of a particular standard. (It might be wood stove or auto emissions that are primarily causing the exceedance.) Instead, the Department establishes emission limits or requires controls in facility permits by determining (through modeling) what amount of emissions under what circumstances might contribute to a violation of the AAQS. The limit is then set below that amount or require controls that will limit emissions to that amount or below. The Department then applies and enforces those limits/control requirements.

Second, the Department believes that the word “construe” was originally required by EPA. Section 160 of the CAA addresses Prevention of Significant Deterioration (PSD) and reads in part:

SEC. 160. The purposes of this part are as follows:

(1) to protect public health and welfare from any actual or potential adverse effect which in the Administrator’s judgment may reasonably be anticipate[d] to occur from air pollution or from exposures to pollutants in other media, which pollutants originate as emissions to the ambient air, notwithstanding attainment and maintenance of all national ambient air quality standards; (emphasis added)

As an example of what could happen, a new major source could assert that its modeling shows that its emissions will not violate the AAQS for SO₂. Even so, its emissions could exceed the PSD increment allowed for SO₂ in the area where the source intends to locate. Just not causing or contributing to a violation of the AAQS might not be sufficient to prevent significant deterioration of existing air quality. Thus, we can’t construe the AAQS as allowing such a deterioration of air quality.

Comment: Env-A 302.02(a) is unclear because it says that a verb, a past tense, and a noun all have the same meaning.

Response: The defined term has been changed to "attainment" and the alternate forms have been deleted.